

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT

District Court Department
Palmer Division
Civil Action No.: 1143CV293

BRIAN JOHNSON)
)
 PLAINTIFF/DEFENDANT IN)
 COUNTERCLAIM)
)
 v.)
)
 PETER FREI)
)
 DEFENDANT/PLAINTIFF IN)
 COUNTERCLAIM)

ANSWER OF PLAINTIFF, BRIAN JOHNSON,
TO COUNTERCLAIMS OF DEFENDANT, PETER FREI

Now comes Brian Johnson, the Plaintiff/Defendant-in-Counterclaim in the above-captioned matter ("Plaintiff") and answers the counterclaims of the Defendant/Plaintiff-in-Counterclaim, Peter Frei ("Defendant") as follows:

1. Denies the allegations contained in Paragraph 1 of the Counterclaims;
2. Denies the allegations contained in Paragraph 2 of the Counterclaims;
3. Denies the allegations contained in Paragraph 3 of the Counterclaims;
4. Denies the allegations contained in Paragraph 4 of the Counterclaims;

5. Denies the allegations contained in Paragraph 5 of the Counterclaims; and

6. Admits the allegations contained in Paragraph 6 of the Counterclaims.

This answer is being filed in response to Defendant's Substituted Answer, Affirmative Defenses, Counterclaims and Jury Demand.

7. As to Paragraph 7 of the Counterclaims, neither admits nor denies the allegations contained therein as the testimony of Officer Forcier speaks for itself.

8. Admits the allegations contained in Paragraph 8 of the Counterclaim. Further responding, Defendant did not call Plaintiff as a witness in the proceedings and the matter was involuntarily dismissed by the Court at the conclusion of Defendant's case.

9. Denies the allegations in Paragraph 9 of the Counterclaims.

10. Denies the allegations in Paragraph 10 of the Counterclaims.

COUNT I – ASSAULT

11. Plaintiff repeats, realleges and reiterates its responses to the allegations contained in Paragraphs 1 through 10 as if fully set forth herein.

12. Denies the allegations contained in Paragraph 12.

COUNT II – ASSAULT AND BATTERY

13. Plaintiff repeats, realleges and reiterates its responses to the allegations contained in Paragraphs 1 through 12 as if fully set forth herein.

14. Denies the allegations contained in Paragraph 14.

COUNT III – DEFAMATION, LIBEL AND SLANDER

15. Plaintiff repeats, realleges and reiterates its responses to the allegations contained in Paragraphs 1 through 14 as if fully set forth herein.

16. Denies the allegations contained in Paragraph 16.

COUNT IV – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

17. Plaintiff repeats, realleges and reiterates its responses to the allegations contained in Paragraphs 1 through 16 as if fully set forth herein.

18. Denies the allegations contained in Paragraph 18.

19. Denies the allegations contained in Paragraph 19.

20. Denies the allegations contained in Paragraph 20.

21. Denies the allegations contained in Paragraph 21.

COUNT V – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

22. Plaintiff repeats, realleges and reiterates its responses to the allegations contained in Paragraphs 1 through 21 as if fully set forth herein.

23. Denies the allegations contained in Paragraph 23.

COUNT VI – ABUSE OF PROCESS AND OBSTRUCTION OF JUSTICE

24. Plaintiff repeats, realleges and reiterates its responses to the allegations contained in Paragraphs 1 through 23 as if fully set forth herein.

25. Denies the allegations contained in Paragraph 25.

26. Denies the allegations contained in Paragraph 26.

27. Denies the allegations contained in Paragraph 27.

28. Denies the allegations contained in Paragraph 28.

29. Denies the allegations contained in Paragraph 29.

30. Denies the allegations contained in Paragraph 30.

31. Denies the allegations contained in Paragraph 31.

32. Denies the allegations contained in Paragraph 32.

**COUNT VII – VIOLATION OF MASSACHUSETTS CIVIL RIGHTS ACT MASS.
GENERAL LAWS, c. 12 §§11h AND 11I**

33. Plaintiff repeats, realleges and reiterates its responses to the allegations contained in Paragraphs 1 through 32 as if fully set forth herein.

34. Denies the allegations contained in Paragraph 34.

35. Denies the allegations contained in Paragraph 35.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Defendant fails to state a claim under which relief can be granted and all of the claims in the counterclaims should be dismissed under Massachusetts Rule Civil Procedure 12(b)(6).

Second Affirmative Defense

One or more of Defendant's claims is barred by the applicable statute of limitations.

Third Affirmative Defense

The alleged acts or omissions of Plaintiff were not the proximate cause of Defendant's injuries, if any, and therefore Defendant may not recover against Plaintiff.

Fourth Affirmative Defense

If Defendant suffered any injury or damages as alleged, such damage was caused by the acts or omissions of parties other than the Plaintiff.

Fifth Affirmative Defense

The Defendant suffered no damages as a direct result of Plaintiff's alleged acts or omissions.

Sixth Affirmative Defense

All of the counterclaims are wholly unsubstantial, frivolous and not advanced in good faith. Plaintiff seeks reasonable counsel fees and other costs and expenses incurred in defending against these claims pursuant to G.L. c. 231, §6F.

WHEREFORE, the Plaintiff, Brian Johnson, demands that judgment enter in his favor on each Count of the Counterclaims, that he be awarded his reasonable counsel fees and other costs and expenses incurred in defending against these claims and that the Counterclaims be dismissed in their entirety.

THE PLAINTIFF, BRIAN JOHNSON, DEMANDS A TRIAL BY JURY ON ALL COUNTS OF THE COUNTERCLAIM SO TRIABLE.

Respectfully submitted,

The Plaintiff/Defendant-in-Counterclaim,
Brian Johnson,
By his attorney,

Tani E. Sapirstein

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Dated: September 19, 2011

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above document was served upon the following via first class mail, postage prepaid, to:

Mr. Peter Frei
101 Maybrook Road
Holland, MA 01521

Dated: September 19, 2011



Tani E. Sapirstein