

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF XXXXXXXXX

-----X
PLAINTIFF,

Plaintiff,
- against -

Index #: XXXX/200X

ANSWER WITH
COUNTERCLAIMS

DEFENDANT I and DEFENDANT II

Defendants.
-----X

The Defendants, DEFENDANT I and DEFENDANT II, s/h/a DEFENDANT II, by their attorney, the LAW OFFICES OF JEENA R. BELIL, P.C., answering the complaint of the plaintiff herein, respectfully shows to this Court and alleges as follows:

ANSWERING AN ALLEGED FIRST CAUSE OF ACTION:

1. Defendants deny upon information and belief each and every allegation contained in paragraphs designated 2, 3, 4, and 7 of the complaint herein, respectfully leaving all questions of law and fact to the triers thereof.
2. Defendants deny upon information and belief each and every allegation contained in paragraph designated 1 of the complaint herein, respectfully leaving all questions of law and fact to the triers thereof, except admit to the fact that Plaintiff and Defendants are the owners as joint tenants with rights of survivorship and seized in fee simple absolute, the residence located at SS XXXXXXXX, XXXXXXXX, New York XXXXX.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

3. Plaintiff has failed to state a cause of action as to any and all allegations.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

4. Pursuant to the "OWNERSHIP AND MANAGEMENT AGREEMENT" (hereinafter "AGREEMENT") signed by all parties to this action, dated June X, XXXX, this matter is improperly venued in Supreme Court, and this Court has no jurisdiction over this matter.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

5. Pursuant to the AGREEMENT, any disputes concerning the property at issue must be submitted to the American Arbitration Association.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

6. By virtue of the "OWNERSHIP AND MANAGEMENT AGREEMENT" signed by all parties to this action, dated June X, XXXX, any and all actions for partition of the property at issue have been waived.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

7. The remedy Plaintiff has demanded in the above entitled action is vitiated by the AGREEMENT.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

8. That partition of the property at issue cannot be had without material injury to the Defendants DEFENDANT I and DEFENDANT II.

AS AND FOR DEFENDANTS' FIRST COUNTERCLAIM

9. Defendants repeat, reiterate and reallege all of the admissions and denials contained in the foregoing Answer which are set forth to each and every allegation contained in paragraphs numbered "1" through "8", inclusive, of the Complaint.

10. That by virtue of the "OWNERSHIP AND MANAGEMENT AGREEMENT" (hereinafter AGREEMENT) signed by all parties to this action, dated June X, XXXX, subparagraph 5, "The Parties shall maintain a checking account for the payment of the costs of maintaining the residence which shall include, but not be limited to electric, oil, water, property taxes and mortgage, and capital improvements. The parties agree to deposit equally each month monies sufficient to accomplish same."

11. Plaintiff has failed to make payments into the established checking account pursuant to the AGREEMENT, for various utilities and maintenance from June, XXXX to present, as well as capital improvements and other expenses/fees/fines, despite the fact that Plaintiff has been notified of same.

12. Plaintiff is presently in arrears to Defendants in the total amount of \$ X,XXX.00. This amount will continue to increase on a monthly basis.

13. Plaintiff has failed and refused to pay the outstanding monies owed to date although due demand for payment has been made.

14. By virtue of the unpaid debts owed, defendants have been damaged in the amount \$ X,XXX.00 plus interest.

AS AND FOR DEFENDANTS' SECOND COUNTERCLAIM

15. Defendants repeat, reiterate and reallege all of the admissions and denials contained in the foregoing Answer which are set forth to each and every allegation contained in paragraphs numbered "1" through "8", inclusive, of the Complaint and the allegations of paragraphs 9 -14 with the same force and effect as if herein set forth at length.

16. As the AGREEMENT sets forth all remedies in connection with disputes pertaining to the residence at issue herein, the Defendants have had to unnecessarily spend money on litigation and court costs to defend the partition action herein.

17. That Defendants have incurred litigation costs and attorneys fees in defending a lawsuit where a prior agreement to handle disputes had been freely entered into by Plaintiff.

18. That Defendants have incurred attorney fees and litigation costs in the amount of \$ X,XXX.00 at present time.

WHEREFORE, defendant demands judgment

- (a) dismissing the complaint herein in its entirety with prejudice as against Plaintiff;
- (b) on the First Counterclaim, awarding Defendants judgment in the amount of \$ XX,XXX.00, plus interest;
- (c) on the Second Counterclaim, awarding Defendants its attorneys fees, disbursements and sanctions for frivolous litigation; and
- (d) for such other and further relief as this Court deems just, proper and equitable.

Dated: Mount Sinai, New York
January 30, XXXX

THE LAW OFFICE OF JEENA R. BELIL, P.C.
Attorney for Defendants
AAAAAAAAAAAAAAa
Mount Sinai, New York 11766
Tel: (631) 445-7380
Fax: (631) 514-3615
File #: NNNNNNNNN

TO: XXXXXXXXX, ESQS.
Attorneys for Plaintiff
XXXXXXXXXX
XXXXXXXXXX, New York xxxxx
(XXX) XXX-XXXX

STATEMENT PURSUANT TO 22 N.Y.C.R.R. §130.1(a):

The following documents, attached hereto, and listed below, are, to the best of the signer's knowledge, information, and belief, after inquiry, certified as not frivolous. If this particular document is not the original, an original has been executed to comply with the requirements of 22 N.Y.C.R.R. §130.1a(a).

- | | | | |
|-------------------------------------|--|--------------------------|--|
| <input checked="" type="checkbox"/> | Answer/Reply | <input type="checkbox"/> | Cross-Claim/Counterclaim |
| <input type="checkbox"/> | Demand for Bill of Particulars | <input type="checkbox"/> | Notice for Discovery and Inspection |
| <input type="checkbox"/> | Attorney's Verification | <input type="checkbox"/> | Notice to Take Deposition Upon Oral Examination |
| <input type="checkbox"/> | Notice Pursuant to CPLR §3101 | <input type="checkbox"/> | Notice to Produce |
| <input type="checkbox"/> | Affidavit of Good Faith | <input type="checkbox"/> | Demand for Change of Venue |
| <input type="checkbox"/> | Demand for Copies of Plaintiff(s) Medical Reports and Authorizations | <input type="checkbox"/> | Notice for Discovery and Inspection of Loss of Income Data |
| <input type="checkbox"/> | Notice for Discovery of Statement of Party | <input type="checkbox"/> | Affirmation in Opposition |
| <input type="checkbox"/> | Notice for Discovery and Inspection of Expert Witness Information | <input type="checkbox"/> | Summons and Complaint |
| <input type="checkbox"/> | Notice of Motion and Affirmation | <input type="checkbox"/> | Statement Under CPLR §3402(b) |
| <input type="checkbox"/> | Affirmation in Support | <input type="checkbox"/> | Notice to Admit |
| <input type="checkbox"/> | Third-Party Summons and Complaint | <input type="checkbox"/> | Notice of Default |
| <input type="checkbox"/> | Notice of Trial/Inquest/Note of Issue | <input type="checkbox"/> | Demand for Jury |
| <input type="checkbox"/> | Request for Judicial Intervention | <input type="checkbox"/> | Demand for Index Number |
| <input type="checkbox"/> | Ninety Day Notice | <input type="checkbox"/> | Response to Interrogatories |
| <input type="checkbox"/> | Notice of Petition/Petition/Affirmation | <input type="checkbox"/> | Response to Combined Demands |
| <input type="checkbox"/> | Demand for Verified Interrogatories | <input type="checkbox"/> | Notice of Declination of Service |
| <input type="checkbox"/> | Response to Preliminary Conference Order | | |
| <input type="checkbox"/> | Response to Plaintiff's Demand Pursuant to CPLR 3101(d) | | |
| <input type="checkbox"/> | Demand for Disclosure of Witness(es) | | |
| <input type="checkbox"/> | Other _____ | | |

Dated: Mount Sinai, New York
January 30, XXXX

THE LAW OFFICE OF JEENA R. BELIL, PC

By: Jeena R. Belil
Attorney for Defendants
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File #: NNNNNNNNN

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF XXXXXXXXX

PLAINTIFF,

Plaintiff,

- against -

DEFENDANT I and DEFENDANT II,

Defendants.

ANSWER

THE LAW OFFICE OF JEENA R. BELIL, P.C.
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File #: NNNNNNNNN

Service of a copy of the within _____ is hereby
admitted.

Dated: _____

Attorney(s) for