

STATE OF INDIANA) SS:
)
COUNTY OF VANDERBURGH) IN THE VANDERBURGH CIRCUIT COURT

TONY R. VINCENT,)
)
Plaintiff,)

v.)

VECTREN CORPORATION,)
CENTERPOINT ENERGY, INC., and)
INDIANA GAS COMPANY, INC. d/b/a)
VECTREN ENERGY DELIVERY OF)
INDIANA, INC. and)
DAVIS H. ELLIOT CONSTRUCTION)
COMPANY, INC.,)
)
Defendants.)

CAUSE NO.: 82C01-2101-CT-000465

VECTREN ENERGY DELIVERY OF)
INDIANA, INC.,)
)
Third-Party Plaintiff,)

v.)

DAVIS H. ELLIOT CONSTRUCTION)
COMPANY, INC.,)
)
Third-Party Defendant/
Counterclaim Plaintiff,)

v.)

VECTREN ENERGY DELIVERY OF)
INDIANA, INC.,)
)
Counterclaim Defendant.)

**DEFENDANT DAVIS H. ELLIOT CONSTRUCTION COMPANY, INC.'S ANSWER TO
AMENDED COMPLAINT, JURY DEMAND AND AFFIRMATIVE DEFENSES**

ANSWER

Comes now the Defendant, Davis H. Elliot Construction Company, Inc. ("Elliot"), by counsel, and for its Answer to Plaintiff's Amended Complaint for Damages ("Amended Complaint"), says as follows:

1. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 1 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

2. Elliot is without the material allegations contained in rhetorical paragraph 2 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

3. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 3 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

4. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 4 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

5. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 5 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

6. Elliot admits the material allegations contained in rhetorical paragraph 6 of Plaintiff's Amended Complaint.

7. In response to the allegations of rhetorical paragraph 7 of Plaintiff's Amended Complaint, states that the subject Contract speaks for itself, and denies the remaining material allegations contained in rhetorical paragraph 7 of Plaintiff's Amended Complaint.

8. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 8 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

9. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 9 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

10. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 10 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

11. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 11 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

12. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 12 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

13. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 13 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

14. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 14 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

15. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 15 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

16. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 16 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

17. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 17 of Plaintiff's Amended Complaint, and for that

reason demands strict proof thereof.

18. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 18 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

19. Elliot incorporates by reference as though fully set forth all of its responses to material allegations contained in rhetorical paragraphs 1 through 18 in response to the allegations contained in rhetorical paragraph 19 of Plaintiff's Amended Complaint.

20. The allegations of rhetorical paragraph 20 do not appear to be directed at this answering Defendant, but to the extent the same are construed to be directed at this answering Defendant, Elliot denies the same.

21. The allegations of rhetorical paragraph 21 do not appear to be directed at this answering Defendant, but to the extent the same are construed to be directed at this answering Defendant, Elliot denies the same.

22. The allegations of rhetorical paragraph 22 do not appear to be directed at this answering Defendant, but to the extent the same are construed to be directed at this answering Defendant, Elliot denies the same.

23. The allegations of rhetorical paragraph 23 do not appear to be directed at this answering Defendant, but to the extent the same are construed to be directed at this answering Defendant, Elliot denies the same.

24. The allegations of rhetorical paragraph 24 and each subpart thereof do not appear to be directed at this answering Defendant, but to the extent the same are construed to be directed at this answering Defendant, Elliot denies the same.

25. The allegations of rhetorical paragraph 25 do not appear to be directed at this answering Defendant, but to the extent the same are construed to be directed at this answering Defendant, Elliot denies the same.

26. The allegations of rhetorical paragraph 26 do not appear to be directed at this answering Defendant, but to the extent the same are construed to be directed at this answering Defendant, Elliot denies the same.

27. The allegations of rhetorical paragraph 27 do not appear to be directed at this answering Defendant, but to the extent the same are construed to be directed at this answering Defendant, Elliot denies the same.

28. The allegations of rhetorical paragraph 28 do not appear to be directed at this answering Defendant, but to the extent the same are construed to be directed at this answering Defendant, Elliot denies the same.

29. Elliot incorporates by reference as though fully set forth all of its responses to material allegations contained in rhetorical paragraphs 1 through 18 in response to the allegations contained in rhetorical paragraph 29 of Plaintiff's Amended Complaint.

30. Elliot denies the material allegations contained in rhetorical paragraph 30 of Plaintiff's Amended Complaint.

31. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 31 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

32. Elliot denies the material allegations contained in rhetorical paragraph 32 of Plaintiff's Amended Complaint.

33. Elliot is without sufficient information with which to admit or deny the material allegations contained in rhetorical paragraph 33 of Plaintiff's Amended Complaint, and for that reason demands strict proof thereof.

34. Elliot denies the material allegations contained in rhetorical paragraph 34 and each subpart thereof of Plaintiff's Amended Complaint.

35. Elliot denies the material allegations contained in rhetorical paragraph 35 of Plaintiff's Amended Complaint.

36. The material allegations contained in rhetorical paragraph 36 of Plaintiff's Amended Complaint do not appear to be directed at this answering Defendant, but to the extent they are, Elliot denies the material allegations contained in rhetorical paragraph 36 of Plaintiff's Amended Complaint.

37. The material allegations contained in rhetorical paragraph 37 of Plaintiff's Amended Complaint do not appear to be directed at this answering Defendant, but to the extent they are, Elliot denies the material allegations contained in rhetorical paragraph 37 of Plaintiff's Amended Complaint.

38. The material allegations contained in rhetorical paragraph 38 of Plaintiff's Amended Complaint do not appear to be directed at this answering Defendant, but to the extent they are, Elliot denies the material allegations contained in rhetorical paragraph 38 of Plaintiff's Amended Complaint.

WHEREFORE, Defendant, Davis H. Elliot Construction Company, Inc., prays the Court to enter judgment in its favor and against the Plaintiff on Plaintiff's Amended Complaint, for its costs expended herein, and for all other just and proper relief in the premises.

JURY DEMAND

Defendant Davis H. Elliot Construction Company, Inc. requests trial by jury on all issues herein triable by a jury as a matter of right.

AFFIRMATIVE DEFENSES

COMES NOW the Defendant, Davis H. Elliot Construction Company, Inc., by counsel, and for its Affirmative Defenses to the Plaintiff's Amended Complaint, says as follows:

1. Plaintiff's damages, if any, were caused by intervening and superceding causes other than acts or omissions of this answering Defendant.

2. Plaintiff's claims may be barred or diminished to the extent that Plaintiff's acts or omissions are subject to the provisions of the Indiana Comparative Fault Act.

3. Plaintiff may have unreasonably failed to mitigate his damages.

4. Plaintiff's alleged damages may be proximately caused by the acts or omissions of persons or entities other than this Defendant, whose names are not known at this time but may be ascertained through the process of discovery. Under the provisions of any §34-51-2-16, this answering Defendant reserves reasonable opportunity to: (1) discover the existence of non-party defenses as alleged herein; (2) add non-parties at defendant's option; (3) withdraw any non-party defenses as to discovery pertains; and/or (4) request the Court to instruct the jury on any or none of the identified non-parties.

WHEREFORE, Defendant, Davis H. Elliot Construction Company, Inc., prays the Court to enter judgment in its favor and against the Plaintiff on Plaintiff's Amended Complaint, for its costs expended herein, and for all other just and proper relief in the premises.

Respectfully submitted,

TERRELL, BORN, SULLIVAN & FIESTER, LLP

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ATTORNEYS FOR DEFENDANT,
THIRD-PARTY DEFENDANT and
COUNTERCLAIM PLAINTIFF DAVIS H.
ELLIOT CONSTRUCTION COMPANY, INC.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document complies with the requirements of Trial Rule 5(G) with regard to information excluded from the public record under Access to Court Records Rule 5. I further certify that on July 12, 2021, a copy of the foregoing document was filed electronically, and notice of this filing will be sent to the following parties by operation of the Court's electronic filing system and/or U.S. Postal System:

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