

Quan-En Yang et al.,
Plaintiffs,
v.
G & C Gulf, Inc., et al.,
Defendants.

* **IN THE**
* **CIRCUIT COURT**
* **FOR**
* **MONTGOMERY COUNTY**
* **Case No. 403885V**
* **Track VI**
* **Hon. Ronald B. Rubin**
*

* * * * *

**DEFENDANT PATNER'S ANSWER TO
THE FOURTH AMENDED COMPLAINT**

GENERAL DENIAL OF LIABILITY

Defendant Bruce Patner, pursuant to Maryland Rule 2-323(d), generally denies all liability to Plaintiffs.

FIRST DEFENSE

The Fourth Amended Complaint ("the Complaint") fails to state a claim upon which relief may be granted.

SECOND DEFENSE

Plaintiffs' claims are barred by the doctrine of illegality because plaintiffs or their agents or representatives participated in, approved, benefitted from, and ratified some of the conduct alleged in the complaint.

THIRD DEFENSE

Plaintiffs' claims are barred in whole or in part by the doctrine of *in pari delicto* because plaintiffs or their agents or representatives participated in, approved, benefitted from, and ratified some of the conduct alleged in the complaint.

RECEIVED
NOV 03 2016
Clerk of the Circuit Court
Montgomery County, Md.

FOURTH DEFENSE

Plaintiffs' claims are barred in whole or in part by the doctrine of estoppel because plaintiffs or their agents or representatives participated in, approved, benefitted from, and ratified some of the conduct alleged in the complaint.

FIFTH DEFENSE

Plaintiffs' claims are barred in whole or in part by the doctrine of waiver because plaintiffs or their agents or representatives participated in, approved, benefitted from, and ratified some of the conduct alleged in the complaint.

SIXTH DEFENSE

Plaintiffs' claims are barred by the doctrine of accord and satisfaction because plaintiffs or their agents or representatives participated in, approved, benefitted from, and ratified some of the conduct alleged in the complaint.

SEVENTH DEFENSE

Plaintiffs' claims are barred by the doctrine of unclean hands because plaintiffs or their agents or representatives participated in, approved, benefitted from, and ratified some of the conduct alleged in the complaint.

EIGHTH DEFENSE

Plaintiffs' claims may be barred in whole or in part by the applicable statute of limitations.

NINTH DEFENSE

Plaintiffs' claims may be barred in whole or in part by laches.

TENTH DEFENSE

Plaintiffs' claims may be barred by their contributory negligence.

ELEVENTH DEFENSE

Plaintiffs have not been damaged by any action of Defendant Patner.

TWELFTH DEFENSE

Plaintiffs' alleged damages as described in the Complaint are too remote and speculative to be legally recognizable.

THIRTEENTH DEFENSE

Plaintiffs have failed to mitigate their alleged damages.

FOURTEENTH DEFENSE

Plaintiffs' description of the putative plaintiff class in the Complaint is insufficient to meet the requirements of a class action against Defendant Patner. This case cannot properly proceed as a plaintiff class action because the claims of the named plaintiffs against Defendant Patner are not typical of the claims of all members of the putative plaintiff class, because it is untrue that all members of the putative plaintiff class are similarly affected by Defendant Patner's alleged conduct, because the named plaintiffs will not fairly and adequately protect the interests of all putative class members, and because it is untrue that there are common questions of law and fact as to each member of the proposed plaintiff class. Moreover, Plaintiffs Pelz and Pelz-Butler are not members of the putative plaintiff class.

FIFTEENTH DEFENSE

Plaintiffs' description of the putative defendant class in the Complaint is insufficient to meet the requirements of a class action. This case cannot properly proceed as a defendant class action because Defendant Patner's defenses against the claims of the named plaintiffs are not typical of the defenses of all members of the putative defendant class, because it is untrue that all members of the proposed defendants are similarly affected by the claims alleged by the named plaintiffs, because Defendant Patner will not fairly and adequately protect the interests of all

members of the putative defendant class, and because it is untrue that there are common questions of law and fact as to each member of the proposed defendant class.

SIXTEENTH DEFENSE

Plaintiffs' conscription of Defendant Patner as the named representative of a putative defendant class, without regard to the lack of any relationship between Patner and the other potential members of the putative defendant class and despite the fact that Defendant Patner has no connection to the vast majority of the members of the proposed plaintiff class, is improper and violates substantive and procedural Due Process.

SEVENTEENTH DEFENSE

Plaintiffs' attempt to pursue this action as a plaintiff class against a defendant class, despite the facts that (i) every member of the proposed plaintiff class does not have a claim against every member of the proposed defendant class; and (ii) named plaintiffs do not have a claim against every member of the putative defendant class, is an improper use of a class action and violates the Maryland Rules and Defendant Patner's right to substantive and procedural due process.

EIGHTEENTH DEFENSE

Plaintiffs lack standing to pursue claims against members of the putative defendant class from whom they have no right to recover damages.

NINETEENTH DEFENSE

Counts III, IV, V, asserting claims under the Montgomery County Code, rely on a theory of the liability that exceeds Montgomery County's authority to enact local laws and is unconstitutional.

TWENTIETH DEFENSE

Defendant reserves the right to adopt and assert any other and further defenses which may be revealed by subsequent investigation and discovery.

WHEREFORE, Defendant Bruce Patner prays for judgment as follows:

- A. That Plaintiffs take nothing by reason of their Fourth Amended Complaint, that the same be dismissed in its entirety with prejudice, and that judgment be entered for Defendant;
- B. That Defendant be awarded his costs, expenses, and reasonable attorneys' fees;
and
- C. That Defendant be awarded such other and further relief as the Court deems just and proper.



James P. Ulywick
Jean E. Lewis
Steven A. Book
Kramon & Graham, P.A.
One South Street, Suite 2600
Baltimore, Maryland 21202
Telephone: 410-752-6030
Facsimile: 410-539-1269

Counsel for Defendant Bruce Patner

Dated: November 3, 2016

Quan-En Yang et al.,

Plaintiffs,

v.

G & C Gulf, Inc., et al.,

Defendants.

* IN THE
 * CIRCUIT COURT
 * FOR
 * MONTGOMERY COUNTY
 * Case No. 403885V
 * Track VI
 *
 * Hon. Ronald B. Rubin
 *

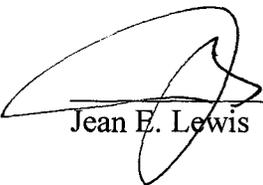
* * * * *

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of November, 2016, a copy of Defendant Patner's Answer to the Fourth Amended Complaint, was sent via electronic and first class mail to:

Richard S. Gordon, Esquire
 Benjamin H. Carney
 GORDON, WOLF & CARNEY, CHTD.
 102 West Pennsylvania Avenue, Suite 402
 Towson, Maryland 21204

Counsel for Plaintiffs.



 Jean E. Lewis