

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

<p>CASSANDRA BAKER an all others similarly situated, Plaintiff v. GLENN M. ROSS, P.C. and GLENN M. ROSS Defendants</p>	<p>CIVIL ACTION NO.: 17-4274</p>
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**DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT
WITH AFFIRMATIVE DEFENSES**

Defendants, Glenn M. Ross, P.C. and Glenn M. Ross, by and through their counsel, Wilson Elser Moskowitz Edelman & Dicker LLP, state their Answer and Affirmative Defenses to Plaintiff's Complaint as follows:

PRELIMINARY STATEMENT

1. Admitted in part, denied in part. It is admitted only that the instant action is brought under the Fair Debt Collection Practices Act. The remaining allegations are denied. At all times relevant to this action the Defendants acted properly, reasonably, with due care and in compliance with all local, state and federal laws, codes, statutes and regulations.

2. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

3. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

4. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required. The Philadelphia Code that is referenced in this paragraph is a

writing that speaks for itself and any characterization of the language is denied. By way of further answer, at all times relevant to this action the Defendants acted properly, reasonably, with due care and in compliance with all local, state and federal laws, codes, statutes and regulations.

5. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

6. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

7. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required. The Philadelphia Code that is referenced in this paragraph is a writing that speaks for itself and any characterization of the language is denied. By way of further answer, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

8. Denied. At all times relevant to this action the Defendants acted properly, reasonably, with due care and in compliance with all local, state and federal laws, codes, statutes and regulations. By way of further answer, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

9. Admitted in part, denied in part. It is admitted only that Defendants filed a Landlord and Tenant Complaint on behalf of their client, Michelle Buckner, and against Plaintiff Cassandra Baker. The remaining allegations are denied. The Landlord and Tenant Complaint and letter from the Defendants are writings that speak for themselves and any characterization of the language is denied. At all times relevant to this action the Defendants acted properly,

reasonably, with due care and in compliance with all local, state and federal laws, codes, statutes and regulations.

10. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required. The alleged letters from the Defendants referenced in this paragraph are a writings that speak for themselves and any characterization of the language is denied. At all times relevant to this action the Defendants acted properly, reasonably, with due care and in compliance with all local, state and federal laws, codes, statutes and regulations.

JURISDICTION AND VENUE

11. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required.

12. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required.

PARTIES

13. Admitted in part, denied in part. It is admitted that Plaintiff is identified in the Complaint as Cassandra Baker. As to the remaining allegations, Defendants are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, deny same.

14. Admitted.

15. Admitted.

FACTS

16. Admitted in part, denied in part. It is admitted that Plaintiff is identified in the Complaint as Cassandra Baker. As to the remaining allegations, Defendants are without sufficient

knowledge or information to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, deny same.

17. Admitted. By way of further answer, the lease agreement that is referenced in this paragraph is a writing that speaks for itself and any characterization of the language is denied.

18. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required. By way of further answer, Section 9-3903 of the Philadelphia Code that is referenced in this paragraph is a writing that speaks for itself and any characterization of the language is denied.

19. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required. By way of further answer, the Philadelphia Code that is referenced in this paragraph is a writing that speaks for itself and any characterization of the language is denied.

20. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required. By way of further answer, it is denied that the failure to comply with the Certificate provision of the Code prohibits a landlord from collecting rent or for the period of noncompliance. The Philadelphia Code that is referenced in this paragraph is a writing that speaks for itself and any characterization of the language is denied.

21. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

22. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

23. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

24. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

25. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

26. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

27. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

28. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

29. Admitted.

30. Admitted in part, denied in part. It is admitted that a Certificate of Rental Suitability was issued on September 23, 2016 for the property at issue in this Complaint. Defendants are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in this paragraph and, therefore, deny same.

31. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

32. Denied as stated. The September 29, 2016 letter that is referenced in this paragraph is a writing that speaks for itself and any characterization of the language is denied. It is specifically denied that Defendant Glenn Ross personally signed the letter.

33. Denied. The September 29, 2016 letter that is referenced in this paragraph is a writing that speaks for itself and any characterization of the language is denied.

34. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required.

35. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required.

36. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required.

37. Denied as stated. On behalf of Michelle Buckner, Defendants filed a Landlord and Tenant complaint on October 12, 2016, against Cassandra Baker.

38. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required. By way of further answer, the Landlord and Tenant complaint that is referenced in this paragraph is a writing that speaks for itself and any characterization of the language is denied.

39. Denied. The Landlord and Tenant complaint that is referenced in this paragraph is a writing that speaks for itself and any characterization of the language is denied.

40. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required.

41. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required.

42. Denied. The Landlord-Tenant complaint that is referenced in this paragraph is a writing that speaks for itself and any characterization of the language is denied.

43. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required.

44. Denied. The Landlord-Tenant complaint that is referenced in this paragraph is a writing that speaks for itself and any characterization of the language is denied.

45. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required.

46. Denied. The Landlord-Tenant complaint that is referenced in this paragraph is a writing that speaks for itself and any characterization of the language is denied.

47. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required.

48. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same. Strict proof is demanded at time of trial.

49. Admitted.

50. Denied. Plaintiff voluntarily vacated the property.

51. Denied. By way further answer, this paragraph contains scandalous and impertinent material that are irrelevant to the single claim under the FDCPA. Strict proof is demanded at time of trial.

52. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required. By way of further answer, the Philadelphia Code that is referenced in this paragraph is a writing that speaks for itself and any characterization of the language is denied.

53. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same. Strict proof is demanded at time of trial.

54. Admitted.

55. Admitted in part, denied in part. It is only admitted that Plaintiff Cassandra Baker was unrepresented when she appeared in landlord-tenant court on November 10, 2016. The remaining allegations are denied as Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

56. Admitted in part, denied in part. It is only admitted that Plaintiff Cassandra Baker entered into a Judgment by Agreement with Michelle Buckner for a total of \$3,250.00. The remaining allegations are denied. It is specifically denied that Plaintiff was under duress. By way of further answer, Plaintiff negotiated a settlement for an amount that was less than the amount the Defendants were seeking.

57. Denied. Plaintiff requested to be let back into the property for the purposes of collecting a small amount of personal items that she left behind when she voluntarily vacated the property earlier.

58. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required. At all times relevant to this action Defendants acted properly, reasonably, with due care and in compliance with all local, state and federal laws, codes, statutes and regulations. Strict proof of Plaintiff's alleged emotional distress is demanded at time of trial.

CLASS ACTION ALLEGATIONS

59. This is an incorporation paragraph to which no response is required. To the extent a response is required, Defendants repeat and incorporate by reference the answers contained in paragraphs 1 through 58 above as if fully set forth herein.

60. Admitted in part, denied in part. Defendants admit only that Plaintiff purports to bring this action as a class action seeking the relief described. It is denied, however, that this action is properly brought as a class action or that Plaintiff, or any member of the putative class, is entitled to the relief sought.

61. Admitted in part, denied in part. Defendants admit only that Plaintiff purports to bring this action as a class action seeking the relief described. It is denied, however, that Plaintiff, or any member of the putative class, has a viable cause of action under the facts or the law. It is further denied that a factual basis exists to support either Plaintiff's claims or the claims of the putative class against Defendants.

62. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required. By way of further answer, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

63(a-h). Denied. The allegations in this paragraph and subparagraphs contain conclusions of law to which no responsive pleading is required. By way of further answer, at all times relevant to this action the Defendants acted properly, reasonably, with due care and in compliance with all local, state and federal laws, codes, statutes and regulations.

64. Admitted in part, denied in part. Defendants admit only that Plaintiff purports to bring this action as a class action seeking the relief described. It is denied, however, that Plaintiff, or any member of the putative class, has a viable cause of action under the facts or the law. It is further denied that a factual basis exists to support either Plaintiff's claims or the claims of the putative class against Defendants.

65. Admitted in part, denied in part. Defendants admit only that Plaintiff purports to bring this action as a class action seeking the relief described. It is denied, however, that Plaintiff, or any member of the putative class, has a viable cause of action under the facts or the law. It is further denied that a factual basis exists to support either Plaintiff's claims or the claims of the putative class against Defendants. By way of further answer, the allegations in this paragraph contain conclusions of law to which no responsive pleading is required.

66. Denied. The allegations contained in this paragraph refer to a party other than Defendants and, therefore, no response is required. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

67. Denied. The allegations contained in this paragraph refer to a party other than Defendants and, therefore, no response is required. By way of further answer, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

68. Denied. The allegations contained in this paragraph refer to a party other than Defendants and, therefore, no response is required. By way of further answer, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

69. Denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

70. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required. By way of further answer, Defendants are without sufficient

knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

71. Denied. The allegations in this paragraph contain conclusions of law to which no responsive pleading is required. By way of further answer, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph and, therefore, deny same.

COUNT I: FAIR DEBT COLLECTION PRACTICES ACT

72. This is an incorporation paragraph to which no response is required. To the extent a response is required, Defendants repeat and incorporate by reference the answers contained in paragraphs 1 through 71 above as if fully set forth herein.

73-81. Denied. The allegations in these paragraphs contain conclusions of law to which no responsive pleading is required. At all times relevant to this action Defendants acted properly, reasonably, with due care and in compliance with all local, state and federal laws, codes, statutes and regulations.

WHEREFORE, Defendants respectfully request that the Court deny certification of a Plaintiff class, enter judgment in their favor, and against Plaintiff, assess costs, including counsel fees, in their favor and against Plaintiff, and grant such other and further relief as the Court deems appropriate.

JURY DEMAND

82. It is only admitted that Plaintiff demands a trial by jury on her claims.

RELIEF REQUESTED

A-F. Defendants deny that Plaintiff, or any member of the putative class, is entitled to the relief requested therein or to any relief in this action.

AFFIRMATIVE DEFENSES

Defendants, by and through their counsel, hereby assert the following Affirmative Defenses, which are intended to be asserted as to the named Plaintiff as well as to any putative class members.

FIRST AFFIRMATIVE DEFENSE

The failure to comply with the Certificate provision of the Philadelphia Code does not prohibit a landlord from collecting rent or for the period of noncompliance.

SECOND AFFIRMATIVE DEFENSE

At all relevant times the Defendants did not violate the Philadelphia Code.

THIRD AFFIRMATIVE DEFENSE

The Complaint fails to set forth any claims or causes of action against Defendants upon which relief can be granted.

FOURTH AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against Defendants for violation of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692, *et. seq.*

FIFTH AFFIRMATIVE DEFENSE

Defendants deny that they violated the FDCPA, 15 U.S.C. § 1692, *et. seq.*

SIXTH AFFIRMATIVE DEFENSE

At all times relevant to this action the Defendants acted properly, reasonably, with due care and in compliance with all local, state and federal laws, codes, statutes and regulations.

SEVENTH AFFIRMATIVE DEFENSE

The Class Action Complaint fails to state a claim upon which relief can be granted against Defendant.

EIGHTH AFFIRMATIVE DEFENSE

The claims in the Complaint against Defendants are barred, in whole or in part, as a matter of law.

NINTH AFFIRMATIVE DEFENSE

The Complaint is barred, in whole or in part, by the statute of limitations.

TENTH AFFIRMATIVE DEFENSE

The Complaint is barred, in whole or in part, by the doctrine of laches.

ELEVENTH AFFIRMATIVE DEFENSE

The claims in the Complaint against Defendants are barred, in whole or in part, by the doctrines of waiver and/or estoppel and/or consent.

TWELFTH AFFIRMATIVE DEFENSE

The claims in the Complaint against Defendants may be barred, in whole or in part, by the doctrines of privilege, absolute privilege and/or immunity.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff's damages and/or losses, if any, were caused in whole, or in part, by Plaintiff herself and/or were the result of Plaintiff's own actions, inactions and/or conduct.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiff's damages and/or losses, if any, were caused in whole, or in part, by Plaintiff's agents and/or representatives.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiff's damages and/or losses, if any, were caused by individuals and/or persons over whom Defendants had no right, ability, and/or authority to control.

SIXTEENTH AFFIRMATIVE DEFENSE

The claims in the Complaint against Defendants are barred, in whole or in part, by the economic loss doctrine.

SEVENTEENTH AFFIRMATIVE DEFENSE

The claims in the Complaint against Defendants may be barred, in whole or in part, by the Plaintiff's failure to mitigate damages and/or losses.

EIGHTEENTH AFFIRMATIVE DEFENSE

The claims in the Complaint against Defendants are barred, in whole or in part, by superseding and/or intervening causes.

NINETEENTH AFFIRMATIVE DEFENSE

Plaintiff has not suffered nor incurred any damages and/or losses as a matter of law.

TWENTIETH AFFIRMATIVE DEFENSE

Plaintiff cannot and will not be able to prove any actual damages and/or losses as a result of any actions, inactions and/or conduct, real and/or alleged, of Defendants.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Plaintiff sustained no injury in fact.

TWENTY- SECOND AFFIRMATIVE DEFENSE

Defendants had the right to rely upon the representations of their client in the prosecution of the underlying action.

TWENTY-THIRD AFFIRMATIVE DEFENSE

Plaintiff is not entitled to an award of costs and/or interest as an item of damage.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

Defendants hereby plead the statute of frauds as a full or partial defense to the Complaint.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

Defendants assert the Doctrine of Waiver and Accord and Satisfaction as an affirmative defense.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

The claims in the Complaint against Defendants are barred, in whole or in part, by the doctrines of collateral estoppel and/or res judicata.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

Plaintiff may have already entered into a release and/or voluntary discharge with other individuals, entities, or judicial bodies which may have the effect of discharging any liability of Defendants to the extent that facts as developed in future discovery may implicate.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

Plaintiff's claims against Defendants are barred on the basis that Plaintiff lacks standing and/or capacity to sue Answering Defendant.

TWENTY-NINTH AFFIRMATIVE DEFENSE

Pursuant to 15 U.S.C. § 1692(k)(c), any alleged violation was unintentional, a bona fide error, and Defendants maintained procedures reasonably adapted to avoid any such error.

THIRTIETH AFFIRMATIVE DEFENSE

Each putative class member's claims against Defendants are barred in whole or in part for one or more of the reasons set forth herein.

THIRTY-FIRST AFFIRMATIVE DEFENSE

The class-wide relief sought by Plaintiff is not recoverable against Defendants because class treatment of Plaintiff's claims does not comport with the requirements of Rule 23 of the Federal Rules of Civil Procedure.

THIRTY-SECOND AFFIRMATIVE DEFENSE

The allegations in Plaintiff's putative Class Action Complaint contain scandalous and impertinent material that are irrelevant to the single claim under the FDCPA and must be stricken.

THIRTY-THIRD AFFIRMATIVE DEFENSE

Defendants reserve the right to assert any other defense that may become apparent during the course of discovery and proceedings in this case.

WHEREFORE, Defendants, Glenn M. Ross, P.C. and Glenn M. Ross, respectfully request that the Court deny certification of a Plaintiff class, enter judgment in their favor, and against Plaintiff, assess costs, including counsel fees, in their favor and against Plaintiff, and grant such other and further relief as the Court deems appropriate.

Respectfully submitted,

WILSON, ELSER, MOSKOWITZ,
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