

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF CHARLESTON) CIVIL ACTION NO.: 2018-CP-10-05822

Kylie Erickson,)
)
Plaintiff,)
)
vs.)
)
James Ventures, LLC d/b/a Loggerheads)
Beach Grill, and Jenna Mattox,)
)
Defendants.)

**ANSWER ON BEHALF OF DEFENDANT
IAMES VENTURES, LLC d/b/a
LOGGERHEADS BEACH GRILL**

FILED
2019 FEB -5 AM 11:48
JULIE J. ARMSTRONG
CLERK OF COURT

Now comes Defendant Iames Ventures, LLC d/b/a Loggerheads Beach Grill (hereinafter referred to as "Defendant Loggerhead's") by and through its undersigned attorneys, responding to the Amended Complaint as follows:

FOR A FIRST DEFENSE

1. That each and every allegation contained in the Amended Complaint not specifically admitted hereinafter is denied and strict proof demanded thereof.
2. That Defendant Loggerhead's is without sufficient information at this time to admit or deny the allegations in Paragraph 1 of the Amended Complaint and, therefore, denies same and demands strict proof thereof.
3. That Defendant Loggerhead's admits only so much of the allegations contained in Paragraph 2 of the Amended Complaint that it is a limited liability company organized and conducts its business located at 123 West Ashley Avenue, Folly Beach, South Carolina pursuant to the laws of the State of South Carolina in Charleston County, South Carolina, and that it operates a restaurant and bar and sells alcoholic beverages to certain customers. All allegations inconsistent with the above are hereby denied and requests legal proof thereof.

4. That Defendant Loggerhead's lacks sufficient information or knowledge upon which to form a belief as to the allegations contained in Paragraph 3 of the Amended Complaint and, therefore, denies same and demands strict proof thereof.

5. That Defendant Loggerhead's, answering the allegations contained in Paragraphs 4 and 5 of the Amended Complaint, admits that jurisdiction and venue of this controversy is appropriate in This Honorable Court in Charleston County.

6. Paragraph 6 of the Amended Complaint does not appear to make any allegations against this Defendant; therefore, this Defendant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 6 of the Amended Complaint, and therefore denies same and requests legal proof thereof.

7. That Defendant Loggerhead's admits only so much of the allegations in Paragraph 7 of Plaintiff's Amended Complaint that it had a duty to follow all laws and regulations concerning the service of alcohol. Defendant Loggerhead's lacks sufficient information or knowledge upon which to form a belief as to all other allegations contained in Paragraph 7 of the Amended Complaint and, therefore, denies same and demands strict proof thereof.

8. That Defendant Loggerhead's denies the allegations in Paragraph 8 of Plaintiff's Amended Complaint.

9. Answering Paragraph 9 of the Amended Complaint, Defendant Loggerhead's incorporates by reference, repeats and re-alleges its Answers to all prior Paragraphs of the Amended Complaint.

10. That Defendant Loggerhead's lacks sufficient information or knowledge upon which to form a belief as to the allegations contained in Paragraph 10 and 11 of the Amended Complaint and, therefore, denies same and demands strict proof thereof.

11. That Defendant Loggerhead's admits the allegations in Paragraph 12 of Plaintiff's Amended Complaint.

12. That Defendant Loggerhead's lacks sufficient information or knowledge upon which to form a belief as to the allegations contained in Paragraphs 13 through 42, of the Amended Complaint and, therefore, denies same and demands strict proof thereof.

AS TO THE FIRST CAUSE OF ACTION

(Negligence/Gross Negligence)

13. Answering Paragraph 43 of the Amended Complaint, Defendant Loggerhead's incorporates by reference, repeats and re-alleges its Answers to all prior Paragraphs of the Amended Complaint.

14. That Defendant Loggerhead's denies the allegations in Paragraph 44 of Plaintiff's Amended Complaint and requests legal proof thereof.

AS TO THE SECOND CAUSE OF ACTION

(Negligence and Recklessness as to Defendant Jenna Mattox)

15. That Defendant Loggerhead's lacks sufficient information or knowledge upon which to form a belief as to the allegations contained in Paragraph 45 of the Amended Complaint and, therefore, denies same and demands strict proof thereof.

16. Paragraph 46, including sub-parts (a) through (i), of the Amended Complaint do not appear to make any allegations against this Defendant; therefore, this Defendant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 46 of the Amended Complaint, and therefore denies same and requests legal proof thereof.

AS TO THE THIRD CAUSE OF ACTION

(Negligence/Dram Shop)

17. Answering Paragraph 47 of the Amended Complaint, Defendant incorporates by reference, repeats and re-alleges its Answers to all prior Paragraphs of the Amended Complaint.

18. That Defendant Loggerhead's denies the allegations in Paragraph 48 of Plaintiff's Amended Complaint and requests legal proof thereof.

19. That Defendant Loggerhead's admits only so much of the allegations contained in Paragraph 49 of the Amended Complaint that it is a limited liability company organized and conducts its business located at 123 West Ashley Avenue, Folly Beach, South Carolina pursuant to the laws of the State of South Carolina in Charleston County, South Carolina, and that it operates a restaurant and bar and sells alcoholic beverages to certain customers pursuant to South Carolina law. All allegations inconsistent with the above are hereby denied and requests legal proof thereof.

20. That Defendant Loggerhead's denies the allegations in Paragraphs 50 through 53, including sub-parts (a) through (m), and Paragraphs 54 through 58, and requests legal proof thereof.

21. That Defendant Loggerhead's denies that Plaintiff is entitled to the relief requested in the "WHEREFORE" clause of Plaintiff's Amended Complaint.

FOR A SECOND DEFENSE

(Failure to State a Claim)

22. That Defendant reiterates all of the allegations contained in each and every foregoing Paragraph of this Answer, as fully as if repeated verbatim herein.

23. That Defendant would show that the allegations of the Amended Complaint fail to state facts sufficient to constitute a cause of action and/or causes of action against Defendant Loggerhead's.

FOR A THIRD DEFENSE

(Sole Negligence of Third Party)

24. That Defendant reiterates all of the allegations contained in each and every foregoing Paragraph of this Answer, as fully as if repeated verbatim herein.

25. That Defendant would show that any injuries or damages sustained by the Plaintiff as set forth in the Amended Complaint were due to and were the proximate result of the sole negligence and/or recklessness of third persons or parties for whose conduct Defendant Loggerhead's is not liable.

FOR A FOURTH DEFENSE

(Intervening/Superseding Negligence)

26. That Defendant reiterates all of the allegations contained in each and every foregoing Paragraph of this Answer, as fully as if repeated verbatim herein.

27. That any alleged injuries or damages sustained by Plaintiff as set forth in the Amended Complaint were the direct and proximate result of the intervening and superseding negligence of parties for which Defendant Loggerhead's is not liable.

FOR A FIFTH DEFENSE

(Proximate Cause)

28. That Defendant Loggerhead's reiterates all of the allegations contained in each and every foregoing Paragraph of this Answer, as fully as if repeated verbatim herein.

29. That the alleged negligence of Defendant Loggerhead's is not the direct or proximate cause of any injuries or damages sustained by Plaintiff as set forth in the Amended Complaint and, therefore, Defendant Loggerhead's is not liable for same.

FOR A SIXTH DEFENSE

(Application of S.C. Code 15-38-15)

30. That Defendant Loggerhead's reiterates all of the allegations contained in each and every foregoing Paragraph of this Answer, as fully as if repeated verbatim herein.

31. That Defendant reserves the right to seek all remedies, rights and privileges available pursuant to S.C. Code Ann. § 15-38-15. That even if Defendant Loggerhead's was negligent as described in the Amended Complaint, which is specifically denied, Defendant Loggerhead's conduct was not willful, wanton, reckless or grossly negligent, and said negligence was less than fifty percent liable for the total fault alleged. Accordingly, joint and several liability should not apply to this action as it relates to Defendant Loggerhead's, and Defendant Loggerhead's should be held liable only for its percentage of fault, if any, to be determined and allocated by the trier of fact.

FOR A SEVENTH DEFENSE

(Comparative Negligence)

32. That Defendant Loggerhead's reiterates all of the allegations contained in each and every foregoing Paragraph of this Answer as fully as if repeated verbatim herein.

33. That any injuries or damages sustained by Plaintiff as set forth in the Amended Complaint were due to and caused in whole or in part by Plaintiff's own actions in failing to exercise due and reasonable care. Defendant Loggerhead's pleads the doctrine of comparative negligence which forbids recovery by Plaintiff as the negligence of Plaintiff is greater than that alleged of Defendant Loggerhead's; alternatively, if there is a judgment for Plaintiff, that judgment shall be reduced in proportion to the amount of Plaintiff's own negligence.

FOR AN EIGHTH DEFENSE

(Reservation and Non-Waiver)

34. That Defendant Loggerhead's reiterates all of the allegations contained in each and every foregoing Paragraph of this Answer, as fully as if repeated verbatim herein.

35. That Defendant Loggerhead's reserves any additional and further defenses as may be revealed by additional information during the course of discovery in this matter.

FOR A NINTH DEFENSE

(Punitive Damages Unconstitutional)

36. That Defendant Loggerhead's reiterates all of the allegations contained in each and every foregoing Paragraph of this Answer, as fully as if repeated verbatim herein.

That any award or assessment of punitive damages as prayed for by the Plaintiff would violate Defendant Loggerhead's constitutional rights under the Fifth, Sixth and Fourteenth Amendments of the United States Constitution and comparable provisions of the South Carolina Constitution.

WHEREFORE, having fully answered the Amended Complaint, Defendant Loggerhead's prays:

- a. That the claims against Defendant Loggerhead's be dismissed with prejudice;
- b. That all costs of Defendant Loggerhead's, including reasonable attorneys' fees, be taxed to a party other than Defendant Loggerhead's;
- c. For a trial by jury on all triable issues; and
- d. For such other and further relief as the Court deems just and proper.

(signature page follows)

By: _____



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*Attorneys for Defendant James Ventures, LLC
d/b/a Loggerhead's Beach Grill*

Charleston, South Carolina
February 5, 2019

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
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Kylie Erickson,)
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James Ventures, LLC d/b/a Loggerheads)
Beach Grill, and Jenna Mattox,)
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Defendants.)

CERTIFICATE OF SERVICE

I hereby certify that I have served a true copy of the foregoing Answer on behalf of Defendant James Ventures, LLC d/b/a Loggerheads Beach Grill by delivering a copy to the following counsel/parties, in accord with applicable Rules of Civil Procedure, on February 5, 2019, via electronic transmission and/or U.S. Mail.

FILED
2019 FEB 5 AM 11:48
JULIE ARSTON
CLERK OF COURT
BY _____

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February 5, 2019

Via Hand Delivery

The Honorable Julie J. Armstrong
Clerk of Court for Charleston County
100 Broad Street, Suite 106
Charleston, SC 29401

RE: Kylie Erickson v. Iames Ventures, LLC d/b/a Loggerheads Beach Grill, and Jenna Mattox
Case No.: 2018-CP-10-5822
Our File No.: 22932.11

Dear Ms. Armstrong:

Please find enclosed for filing the Answer on behalf of Defendant Iames Ventures, LLC d/b/a Loggerhead's Beach Grill to the Amended Complaint in the above referenced matter. Please provide a filed copy of the Answer to the courier.

By copy of this letter to all counsel of record, I am providing a copy of the Answer.

Thank you for your attention to this matter. Should you have any questions or need further information, please do not hesitate to contact our office.

With kindest regards, I am,

Very Truly Yours,

A handwritten signature in black ink, appearing to read "B. Cabot", written over a white background.

Brandon S. Cabot

BSC:dmc

Enclosure (as stated above)

cc: Christopher T. Dorsel, Esquire