

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

STRUCTURAL WATERPROOFING,)
 LLC)

Plaintiff,)

vs.)

TRIBUNE HOLDINGS, LLC, et al.,)

Defendants.)

IN THE COURT OF COMMON PLEAS)
 FIFTEENTH JUDICIAL CIRCUIT)
 CASE NO. 2020-CP-26-04842)

SUMMONS

TO: Structural Waterproofing, LLC and its counsel Caroline Lindsey Trautman:

YOU ARE HEREBY SUMMONED and required to answer the Counterclaim herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this Counterclaim upon the subscribers, at the addresses shown below, within thirty (30) days after service hereof, exclusive of the day of service, and if you fail to answer the Counterclaim, judgment by default will be rendered against you for the relief demanded in the Counterclaim.

Respectfully submitted:

s/Nate Fata

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Surfside Beach, SC
 October 20, 2020

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY)	CASE NO. 2020-CP-26-04842
)	
)	
STRUCTURAL WATERPROOFING, LLC)	
)	
Plaintiff,)	
vs.)	ANSWER AND COUNTERCLAIM
)	OF TRIBUNE HOLDINGS, LLC
TRIBUNE HOLDINGS, LLC, et al.,)	TO PLAINTIFF'S FIRST AMENDED
)	COMPLAINT
Defendants.)	
)	
)	
)	

TO: Structural Waterproofing, LLC and its counsel Caroline Lindsey Trautman:

Defendant, Tribune Holdings, LLC (“Tribune Holdings”), by and through its attorney, Nate Fata, Esq., responds to the Plaintiff’s First Amended Complaint as follows:

Any allegation in the Amended Complaint not specifically admitted herein is deemed denied.

1. Tribune Holdings lacks sufficient information to either admit or deny the allegations contained in paragraph 1 of the Amended Complaint and, therefore, denies the same.
2. Tribune Holdings admits the allegations contained in paragraph 2 of the Amended Complaint.
3. Tribune Holdings admits the allegations contained in paragraph 3 of the Amended Complaint.
4. Tribune Holdings lacks sufficient information to either admit or deny the allegations contained in paragraph 4 of the Amended Complaint and, therefore, denies the same.
5. Tribune Holdings admits the allegations contained in paragraph 5 of the

Amended Complaint to the extent they allege there was an agreement with Plaintiff to provide labor and materials. All other allegations are denied.

6. Tribune Holdings denies the allegations contained in paragraph 6 of the Amended Complaint.

7. Tribune Holdings admits the allegations contained in paragraph 7 of the Amended Complaint.

8. Tribune Holdings lacks sufficient information to either admit or deny the allegations contained in paragraph 8 of the Amended Complaint and, therefore, denies the same.

Factual Allegations and First Cause of Action
(Collection)

9. Tribune Holdings denies the allegations contained in paragraph 9 of the Amended Complaint.

10. Tribune Holdings admits the allegations contained in paragraph 10 of the Amended Complaint.

11. Tribune Holdings admits the allegations contained in paragraph 11 insofar as they allege there was an agreement under which Structural Waterproofing was to provide labor and materials. Tribune Holdings denies the remaining allegations contained in paragraph 11.

12. Tribune Holdings lacks sufficient information to either admit or deny the allegations contained in paragraph 12 of the Amended Complaint and, therefore, denies the same.

13. Tribune Holdings lacks sufficient information to either admit or deny the allegations contained in paragraph 13 of the Amended Complaint and, therefore, denies the same.

14. Tribune Holdings denies the allegations contained in paragraph 14 of the

Amended Complaint as stated.

15. Tribune Holdings denies the allegations contained in paragraph 15 of the Amended Complaint.

16. Tribune Holdings denies the allegations contained in paragraph 16 of the Amended Complaint.

17. Tribune Holdings denies the allegations contained in paragraph 17 of the Amended Complaint as stated.

18. Tribune Holdings admits it made payments to Structural Waterproofing but denies the remaining allegations contained in paragraph 18 of the Amended Complaint.

19. Tribune Holdings lacks sufficient information to either admit or deny the allegations in paragraph 19 of the Amended Complaint and, therefore, denies the same and demands strict proof thereof.

20. Tribune Holdings admits the allegations contained in paragraph 20 insofar as it refers to Structural Waterproofing's letter, but denies the accuracy of the same.

21. Tribune Holdings denies the allegations contained in paragraph 21 of the Amended Complaint as they seek to characterize or summarize a letter.

22. Tribune Holdings denies the allegations contained in paragraph 22 of the Amended Complaint as they seek to characterize or summarize a letter.

23. Tribune Holdings lacks sufficient information to either admit or deny the allegations contained in paragraph 23 of the Amended Complaint and, therefore, denies the same.

24. Tribune Holdings denies the allegations contained in paragraph 24 of the Amended Complaint.

25. Tribune Holdings denies the allegations contained in paragraph 25 of the Amended Complaint.

26. Tribune Holdings admits some of the allegations contained in paragraph 26 of the Amended Complaint to the extent they allege there is a filed mechanics lien, but denies the mechanics lien has been timely served. All other allegations are denied.

27. Tribune Holdings denies the allegations contained in paragraph 27 of the Amended Complaint.

28. Tribune Holdings denies the allegations contained in paragraph 28 of the Amended Complaint.

29. Tribune Holdings denies the allegations contained in paragraph 29 of the Amended Complaint.

30. Tribune Holdings denies the allegations contained in paragraph 30 of the Amended Complaint.

31. Tribune Holdings admits the allegations contained in paragraph 31 of the Amended Complaint to the extent they allege there was an agreement. All other allegations are denied.

32. Tribune Holdings admits the allegations contained in paragraph 32 of the Amended Complaint to the extent they allege Structural Waterproofing furnished some labor and materials. All other allegations are denied.

33. Tribune Holdings denies the allegations contained in paragraph 33 of the Amended Complaint.

34. Tribune Holdings denies the allegations contained in paragraph 34 of the Amended Complaint.

35. Tribune Holdings denies the allegations contained in paragraph 35 of the Amended Complaint.

36. Tribune Holdings denies the allegations contained in paragraph 36 of the Amended Complaint.

37. Tribune Holdings denies the allegations contained in paragraph 37 of the Amended Complaint.

38. Tribune Holdings denies the allegations contained in paragraph 38 of the Amended Complaint.

39. Tribune Holdings admits the allegations contained in paragraph 39 of the Amended Complaint.

40. Tribune Holdings lacks sufficient information to either admit or deny the allegations contained in paragraph 40 of the Amended Complaint and, therefore, denies the same.

41. Tribune Holdings denies the allegations contained in paragraph 41 of the Amended Complaint.

42. Tribune Holdings denies the allegations contained in paragraph 42 of the Amended Complaint.

43. Tribune Holdings denies the allegations contained in paragraph 43 of the Amended Complaint.

44. Tribune Holdings denies the allegations contained in paragraph 44 of the Amended Complaint.

45. Tribune Holdings denies the allegations contained in paragraph 45 of the Amended Complaint.

46. Tribune Holdings denies the allegations contained in paragraph 46 of the Amended Complaint.

47. Tribune Holdings denies the allegations contained in paragraph 47 of the Amended Complaint.

48. Tribune Holdings denies the allegations contained in paragraph 48 of the Amended Complaint.

49. Tribune Holdings denies the allegations contained in paragraph 49 of the Amended Complaint.

50. Tribune Holdings denies the allegations contained in paragraph 50 of the Amended Complaint.

51. Tribune Holdings denies the allegations contained in paragraph 51 of the Amended Complaint.

52. Tribune Holdings denies the allegations contained in paragraph 52 of the Amended Complaint.

53. Tribune Holdings denies the allegations contained in paragraph 53 of the Amended Complaint.

54. Tribune Holdings denies the allegations contained in paragraph 54 of the Amended Complaint.

55. Tribune Holdings denies the allegations contained in paragraph 55 of the Amended Complaint.

56. Tribune Holdings denies the allegations contained in paragraph 56 of the Amended Complaint. Tribune Holdings denies the propriety of any relief requested by the Plaintiff. Tribune Holdings is entitled to its attorney fees under the mechanic's lien statute.

FOR A FIRST DEFENSE
(Estoppel)

57. Not inconsistent herewith, Tribune Holdings incorporates each and every paragraph set forth above as if repeated verbatim.

58. Plaintiff's claims are barred by estoppel due to its statements, actions, and omissions.

FOR A SECOND DEFENSE
(Payment)

59. Not inconsistent herewith, Tribune Holdings incorporates each and every paragraph set forth above as if repeated verbatim.

60. Plaintiff's claims are barred or should be reduced due to payment of the contract price and any other payments made during the litigation.

FOR A THIRD DEFENSE
(Condition Precedent)

61. Not inconsistent herewith, Tribune Holdings incorporates each and every paragraph set forth above as if repeated verbatim.

62. Any alleged change order required, as a condition precedent, an authorization from Tribune Holdings which was not provided. In addition, any claim for payment is not due because Tribune Holdings has not received payment from the Association, which is a condition precedent for any Tribune Holdings' payment to Plaintiff.

FOR A FOURTH DEFENSE
(Scope of Work)

63. Not inconsistent herewith, Tribune Holdings incorporates each and every paragraph set forth above as if repeated verbatim.

64. Tribune Holdings pleads the original scope of work as a bar to Plaintiff's claims for additional sums.

FOR A FIFTH DEFENSE
(Failure to Timely File and/or Serve)

65. Not inconsistent herewith, Tribune Holdings incorporates each and every paragraph set forth above as if repeated verbatim.

66. Plaintiff has failed to timely file and serve all defendants with the lien and lawsuit and, therefore, the mechanic's lien claim must be dismissed.

FOR A SIXTH DEFENSE
(Set Off and Recoupment)

67. Not inconsistent herewith, Tribune Holdings incorporates each and every paragraph set forth above as if repeated verbatim.

68. Tribune Holdings pleads set off and recoupment as a defense to Plaintiff's claims. Plaintiff has failed to perform material aspects of its agreement and, therefore, Tribune Holdings is entitled to set off and reduce any amounts allegedly owed. Plaintiff has failed to provide, in part, warranties, workers compensation certificates and general liability certificates, and materials and service that were part of Plaintiff's obligation. As a result, Tribune Holdings has expended or will expend amounts which should be set off against any claimed amounts of Plaintiff.

69. In addition, some of the work performed by Plaintiff was improper or defective, causing Tribune Holdings to expend sums to correct the same. All amounts expended by Tribune to correct Plaintiff's defective work are a setoff and reduce any amounts Plaintiff alleges are owed.

FOR A SEVENTH DEFENSE
(Waiver)

70. Not inconsistent herewith, Tribune Holdings incorporates each and every paragraph set forth above as if repeated verbatim.

71. Plaintiff's claims are barred by the doctrine of waiver.

FOR A FIRST COUNTERCLAIM
(Breach of Contract)

72. Not inconsistent herewith, Tribune Holdings incorporates each and every paragraph set forth above as if repeated verbatim.

73. Plaintiff was required to provide various services and materials under its agreement with Tribune Holdings (the "Agreement").

74. Plaintiff failed to provide all items required under the Agreement.

75. In part, Plaintiff failed to provide the following:

- (a) warranties;
- (b) workers compensation certificates;
- (c) general liability certificates;
- (d) waste removal services; and
- (e) Employees/laborers to operate stages.

76. In addition, Plaintiff's work in some regards was deficient and/or defective which required Tribune Holdings to expend sums to correct and/or address.

77. As a result of Plaintiff's breach of the Agreement, Tribune Holdings has suffered damages and is entitled to the same, interest thereon, plus attorney fees and costs.

WHEREFORE, Tribune Holdings, LLC respectfully requests the following relief:

- (a) Dismissal of Plaintiff's claim with prejudice;
- (b) Award of damages and attorney fees and costs under its counterclaim;
- (c) Award of attorney fees under the mechanic's lien statute; and
- (d) Any other relief this Court deems just and reasonable.

Respectfully submitted:

s/Nate Fata

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