

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

LOW COUNTRY MACHINERY, INC., LCR)	Civil Action No.: 9:15-cv-04876-RMG
CONSTRUCTION, INC., LELAND RENTZ,)	
AND CHRISTINA RENTZ,)	
)	
Plaintiffs,)	BALBOA CAPITAL CORPORATION'S
)	ANSWER AND COUNTERCLAIMS
vs.)	
)	
BALBOA CAPITAL CORPORATION,)	
)	
Defendant)	

Defendant Balboa Capital Corporation (“Balboa”), by and through its undersigned counsel, answers the Complaint of Plaintiffs Low Country Machinery, Inc. (“LCM”), LCR Construction, Inc. (“LCR”), Leland Rentz, and Christina Rentz (collectively, “Plaintiffs”) as follows:

FOR A FIRST DEFENSE

Balboa denies each and every allegation of the Complaint not hereinafter specifically admitted is denied and demands strict proof thereof.

FOR A SECOND DEFENSE

1. Responding to the allegations in Paragraph 1 of the Complaint, admitted upon information and belief.
2. Responding to the allegations in Paragraph 2 of the Complaint, admitted upon information and belief.
3. Responding to the allegations in Paragraph 3 of the Complaint, admitted upon information and belief.
4. Admitted.

5. The allegations in Paragraph 5 attempt to assert a legal conclusion which does not require a response from Balboa; however, Balboa denies the same.

6. Responding to the allegations in Paragraph 6 of the Complaint, Balboa admits only that it is authorized to and does transact business within the State of South Carolina. Balboa denies the remaining allegations in Paragraph 6 of the Complaint, refers Plaintiffs to the lease agreement and supporting documentation (the "Lease Agreement"), a copy of which is attached as Exhibit 1, and expressly denies any allegations inconsistent therewith.

7. The allegations in Paragraph 7 attempt to assert a legal conclusion which does not require a response from Balboa; however, Balboa denies the same, refers Plaintiffs to the Lease Agreement and expressly denies any allegations inconsistent therewith.

8. Admitted.

9. Responding to the allegations in Paragraph 9 of the Complaint, Balboa is without sufficient knowledge or information to respond to the remaining allegations in Paragraph 9 of the Complaint and therefore denies the same.

10. Balboa denies the allegations in Paragraph 10 of the Complaint. Balboa admits only that it leased to LCR the use of a new 2013 JCB 427ZX Wheel Loader (the "Equipment") as set forth in the applicable Lease Agreement. Balboa refers Plaintiffs to the Lease Agreement and expressly denies any allegations inconsistent therewith.

11. Responding to the allegations in Paragraph 11 of the Complaint, Balboa admits only that it leased to LCR the use of the Equipment as set forth in the applicable Lease Agreement and refers Plaintiffs to the Lease Agreement. Balboa is without sufficient knowledge or information to respond to the remaining allegations in Paragraph 11 of the Complaint and therefore denies the same.

12. Responding to the allegations in Paragraph 12 of the Complaint, Balboa admits only that it leased to LCR the use of the Equipment as set forth in the applicable Lease Agreement and refers Plaintiffs to the Lease Agreement. Balboa is without sufficient knowledge or information to respond to the remaining allegations in Paragraph 12 of the Complaint and therefore denies the same.

13. Responding to the allegations in Paragraph 13 of the Complaint, Balboa admits only that it leased to LCR the use of the Equipment as set forth in the applicable Lease Agreement. Balboa refers Plaintiffs to the Lease Agreement, expressly denies any allegations inconsistent therewith, and denies any remaining allegations in Paragraph 13 of the Complaint.

14. Admitted.

15. Balboa admits that the monthly rent was \$2,579.54 plus applicable taxes and refers Plaintiffs to the Lease Agreement, expressly denies any allegations inconsistent therewith, and denies any remaining allegations in Paragraph 15 of the Complaint.

16. Responding to the allegations in Paragraph 16 of the Complaint, Balboa denies that LCR timely remitted all monthly payments to Balboa from January of 2014 until July of 2015.

17. Admitted, upon information and belief.

18. Responding to the allegations in Paragraph 18 of the Complaint, Balboa admits that LCM contacted Balboa to discuss trading in the Equipment for new, upgraded equipment to be leased from Balboa and requested a wrap quote. Balboa denies any remaining allegations in Paragraph 18 of the Complaint.

19. Responding to the allegations in Paragraph 19 of the Complaint, Balboa admits that it provided a wrap quote to LCM reflecting a discounted amount due under the Lease Agreement if the Equipment was traded in and upgraded equipment was leased from Balboa by

means of the email attached as Exhibit 2 to the Complaint. Balboa expressly denies that the quote was a “payoff” that would satisfy the entirety of LCR’s obligations under the Lease Agreement, refers Plaintiffs to the Lease Agreement, and denies any allegations inconsistent therewith. Balboa also denies any remaining allegations in Paragraph 19 of the Complaint.

20. Responding to the allegations in Paragraph 20 of the Complaint, Balboa admits that it provided a wrap quote to LCM reflecting a discounted amount due under the Lease Agreement if the Equipment was traded in and upgraded equipment was leased from Balboa by means of the email attached as Exhibit 2 to the Complaint. Balboa expressly denies that the quote was a “payoff” that would satisfy the entirety of LCR’s obligations under the Lease Agreement, refers Plaintiffs to the Lease Agreement, and denies any allegations inconsistent therewith. Balboa also denies any remaining allegations in Paragraph 20 of the Complaint.

21. Responding to the allegations in Paragraph 21 of the Complaint, Balboa admits that it provided a wrap quote to LCM reflecting a discounted amount due under the Lease Agreement if the Equipment was traded in and the upgraded equipment was leased from Balboa by means of the email attached as Exhibit 2 to the Complaint. Balboa expressly denies that the quote was a “payoff” that would satisfy the entirety of LCR’s obligations under the Lease Agreement, refers Plaintiffs to the Lease Agreement, and denies any allegations inconsistent therewith. Balboa also denies any remaining allegations in Paragraph 21 of the Complaint.

22. Responding to the allegations in Paragraph 22 of the Complaint, Balboa admits that it provided a wrap quote to LCM reflecting a discounted amount due under the Lease Agreement if the Equipment was traded in and upgraded equipment was leased from Balboa by means of the email attached as Exhibit 3 to the Complaint. Balboa expressly denies that the quote was a “payoff” of the entirety of LCR’s obligations under the Lease Agreement, refers

Plaintiffs to the Lease Agreement, and denies any allegations inconsistent therewith. Balboa also denies any remaining allegations in Paragraph 21 of the Complaint.

23. Responding to the allegations in Paragraph 23 of the Complaint, Balboa admits that it provided a wrap quote to LCM reflecting a discounted amount due under the Lease Agreement if the Equipment was traded in and upgraded equipment was leased from Balboa by means of the email attached as Exhibit 2 to the Complaint. Balboa expressly denies that the quote was a “payoff” that would satisfy the entirety of LCR’s obligations under the Lease Agreement, refers Plaintiffs to the Lease Agreement, and denies any allegations inconsistent therewith. Balboa also denies any remaining allegations in Paragraph 23 of the Complaint.

24. Responding to the allegations in Paragraph 24 of the Complaint, Balboa admits only that the wire was transmitted to Balboa but Balboa denies that it was accepted in satisfaction of the entirety of LCR’s obligations under the Lease Agreement. Balboa refers Plaintiffs to the Lease Agreement, denies any allegations inconsistent therewith, and denies any remaining allegations in Paragraph 24 of the Complaint.

25. Responding to the allegations in Paragraph 25 of the Complaint, Balboa admits only that the wired amount exceeded the balance of future monthly payments under the Lease Agreement but Balboa expressly denies that such amounts satisfied LCR’s obligations under the Lease Agreement. Balboa refers Plaintiffs to the Lease Agreement, denies any allegations inconsistent therewith, and denies any remaining allegations in Paragraph 25 of the Complaint.

26. Admitted.

27. Responding to the allegations in Paragraph 27 of the Complaint, Balboa admits only that additional amounts were owed by LCR to Balboa under the terms of the Lease Agreement and Balboa and Plaintiffs had failed to agree to terms for an upgrade of the

Equipment. Balboa refers Plaintiffs to the Lease Agreement, denies any allegations inconsistent therewith, and denies any remaining allegations in Paragraph 25 of the Complaint.

28. Admitted, upon information and belief.

29. Responding to the allegations in Paragraph 29 of the Complaint, Balboa expressly denies making the representations alleged in Paragraph 29 of the Complaint, refers Plaintiffs to the Lease Agreement, and denies any allegations inconsistent therewith. Balboa is without knowledge and information sufficient to respond to the remaining allegations in Paragraph 29 of the Complaint and therefore denies the same.

30. Responding to the allegations in Paragraph 30 of the Complaint, Balboa admits only that payments made by LCR did not satisfy the LCR's obligations to Balboa under terms of the Lease Agreement. Balboa refers Plaintiffs to the Lease Agreement and denies any allegations inconsistent therewith. Balboa is without knowledge and information sufficient to respond to the remaining allegations in Paragraph 30 of the Complaint and therefore denies the same.

31. Admitted.

32. Admitted.

IN RESPONSE TO THE FIRST CLAIM

(Declaratory Judgment Limiting LCR's Monetary Liability to Balboa to \$140,362.72)

33. Responding to the allegations contained in Paragraph 33 of the Complaint, Balboa reasserts the responses contained in the previous paragraphs and incorporates the same herein as if restated verbatim.

34. The allegations in Paragraph 34 attempt to assert a legal conclusion which does not require a response from Balboa.

35. Responding to the allegations in Paragraph 35 of the Complaint, Balboa admits that LCM contacted Balboa to discuss trading in the Equipment for new, upgraded equipment to

be leased from Balboa and asked to receive a wrap quote. Balboa expressly denies that the quote was a “payoff” that would satisfy the entirety of LCR’s obligations under the Lease Agreement, refers Plaintiffs to the Lease Agreement, and denies any allegations inconsistent therewith. Balboa also denies any remaining allegations in Paragraph 35 of the Complaint.

36. Denied.

37. Responding to the allegations in Paragraph 36 of the Complaint, Balboa responds that the Lease Agreement is a document which speaks for itself and Balboa craves reference to the terms of the Lease Agreement and denies any allegations in Paragraph 37 of the Complaint inconsistent therewith. Balboa denies that, at the time of the purported wire transfer, LCR was permitted to exercise the option in the Addendum to Equipment Lease Agreement #189545-001. Any remaining allegations in Paragraph 37 of the Complaint are denied.

38. Denied. Balboa craves reference to the terms of the Lease Agreement and denies any allegations in Paragraph 38 of the Complaint.

39. Denied. Balboa craves reference to the terms of the Lease Agreement and denies any allegations in Paragraph 39 of the Complaint.

40. Denied.

41. Denied.

42. Responding to the allegations in Paragraph 42 of the Complaint, Balboa expressly denies making the representations alleged in Paragraph 42 of the Complaint, refers Plaintiffs to the Lease Agreement, and denies any allegations inconsistent therewith. Balboa is without knowledge and information sufficient to respond to the remaining allegations in Paragraph 42 of the Complaint and therefore denies the same.

43. Denied.

IN RESPONSE TO THE SECOND CLAIM
(Declaratory Judgment that Paragraph 16 of the Lease is Arbitrary, Unconscionable and results in Unjust Enrichment)

44. Responding to the allegations contained in Paragraph 44 of the Complaint, Balboa reasserts the responses contained in the previous paragraphs and incorporates the same herein as if restated verbatim.

45. The allegations in Paragraph 45 attempt to assert a legal conclusion which does not require a response from Balboa; however, Balboa denies the allegations in Paragraph 45.

46. Responding to the allegations in Paragraph 46 of the Complaint, Balboa denies that LCR was in compliance with the Lease Agreement at the time LCM contacted Balboa to discuss trading in the Equipment for new, upgraded equipment to be leased from Balboa and asked to receive a wrap quote. Balboa admits only that the terms of the Lease Agreement govern the parties' transaction, refers Plaintiffs to the terms of the Lease Agreement and denies any allegations inconsistent therewith. Balboa denies any remaining allegations in Paragraph 46 of the Complaint.

47. Responding to the allegations in Paragraph 47 of the Complaint, Balboa responds that the Lease Agreement is a document which speaks for itself and Balboa craves reference to the terms of the Lease Agreement and denies any allegations in Paragraph 47 of the Complaint inconsistent therewith.

48. Balboa admits only that LCR, Leland Rentz, and Christina Rentz have not satisfied their obligations under the terms of the Lease Agreement. Balboa craves reference to the terms of the Lease Agreement, expressly denies any allegations that it has acted arbitrarily, and denies any remaining allegations in Paragraph 48 of the Complaint.

49. Responding to the allegations in Paragraph 49 of the Complaint, Balboa responds that the Lease Agreement is a document which speaks for itself and Balboa craves reference to

the terms of the Lease Agreement and denies any allegations in Paragraph 49 of the Complaint inconsistent therewith. Balboa denies that, at the time of the purported wire transfer, LCR was permitted to exercise the option in the Addendum to Equipment Lease Agreement #189545-001. Any remaining allegations in Paragraph 49 of the Complaint are denied.

50. Responding to the allegations in Paragraph 50 of the Complaint, Balboa responds that the Lease Agreement is a document which speaks for itself and Balboa craves reference to the terms of the Lease Agreement and denies any allegations in Paragraph 50 of the Complaint inconsistent therewith.

51. Denied.

52. Denied.

IN RESPONSE TO THE THIRD CLAIM
(Negligent Misrepresentation – Pled in the Alternative)

53. Responding to the allegations contained in Paragraph 53 of the Complaint, Balboa reasserts the responses contained in the previous paragraphs and incorporates the same herein as if restated verbatim.

54. Responding to the allegations in Paragraph 54 of the Complaint, Balboa admits that it provided a wrap quote to LCM reflecting a discounted amount due under the Lease Agreement if the Equipment was traded in and upgraded equipment was leased from Balboa. Balboa expressly denies that the quote was a “payoff” that would satisfy the entirety of LCR’s obligations under the Lease Agreement, refers Plaintiffs to the Lease Agreement, and denies any allegations inconsistent therewith. Balboa also denies any remaining allegations in Paragraph 54 of the Complaint.

55. Responding to the allegations in Paragraph 55 of the Complaint, Balboa denies making any such representations, denies that Plaintiffs were permitted to transfer the Equipment, and craves reference to the terms of the Lease Agreement. Balboa is without knowledge or

information sufficient to respond to the remaining allegations in Paragraph 55 of the Complaint and therefore denies the same.

56. Denied.

57. Responding to the allegations in Paragraph 57 of the Complaint, Balboa denies making any such representations and craves reference to the terms of the Lease Agreement. Balboa is without knowledge or information sufficient to respond to the remaining allegations in Paragraph 57 of the Complaint and therefore denies the same.

58. Responding to the allegations in Paragraph 58 of the Complaint, Balboa admits that LCM contacted Balboa to discuss trading in the Equipment for new, upgraded equipment to be leased from Balboa and asked to receive a wrap quote. Balboa denies any remaining allegations in Paragraph 58 of the Complaint.

59. Responding to the allegations in Paragraph 59 of the Complaint, Balboa denies making any false representations, denies that the funds supplied by LCR satisfied LCR's obligations to Balboa under the terms of the Lease Agreement, and and craves reference to the terms of the Lease Agreement. Balboa denies any remaining allegations in Paragraph 59 of the Complaint.

60. Responding to the allegations in Paragraph 60 of the Complaint, Balboa denies making any false representations, denies that the funds supplied by LCR satisfied LCR's obligations to Balboa under the terms of the Lease Agreement, and and craves reference to the terms of the Lease Agreement. Balboa denies any remaining allegations in Paragraph 60 of the Complaint.

61. Denied.

62. Denied.

IN RESPONSE TO THE FOURTH CLAIM
(Fraud – Pled in the Alternative)

63. Responding to the allegations contained in Paragraph 63 of the Complaint, Balboa reasserts the responses contained in the previous paragraphs and incorporates the same herein as if restated verbatim.

64. Responding to the allegations in Paragraph 64 of the Complaint, Balboa admits only that it provided a wrap quote to LCM reflecting a discounted amount due under the Lease Agreement if the Equipment was traded in and upgraded equipment was leased from Balboa. Balboa expressly denies that the quote was a “payoff” that would satisfy the entirety of LCR’s obligations under the Lease Agreement, refers Plaintiffs to the Lease Agreement, and denies any allegations inconsistent therewith. Balboa also denies any remaining allegations in Paragraph 64 of the Complaint.

65. Responding to the allegations in Paragraph 65 of the Complaint, Balboa making any such representations, denies that Plaintiffs were permitted to transfer the Equipment, and craves reference to the terms of the Lease Agreement. Balboa denies any remaining allegations in Paragraph 65 of the Complaint.

66. Responding to the allegations in Paragraph 66 of the Complaint, Balboa admits only that LCM contacted Balboa to discuss trading in the Equipment for new, upgraded equipment to be leased from Balboa and asked to receive a wrap quote. Balboa denies that Plaintiffs were permitted to transfer the Equipment denies any remaining allegations in Paragraph 66 of the Complaint.

67. Responding to the allegations in Paragraph 67 of the Complaint, Balboa making any such representations and craves reference to the terms of the Lease Agreement. Balboa is without knowledge or information sufficient to respond to the remaining allegations in Paragraph 67 of the Complaint and therefore denies the same.

68. Responding to the allegations in Paragraph 68 of the Complaint, Balboa admits only that LCM contacted Balboa to discuss trading in the Equipment for new, upgraded equipment to be leased from Balboa and asked to receive a wrap quote. Balboa denies any remaining allegations in Paragraph 68 of the Complaint.

69. Responding to the allegations in Paragraph 59 of the Complaint, Balboa denies making any false representations, denies that the funds supplied by LCR satisfied LCR's obligations to Balboa under the terms of the Lease Agreement, and craves reference to the terms of the Lease Agreement. Balboa denies any remaining allegations in Paragraph 69 of the Complaint.

70. Responding to the allegations in Paragraph 70 of the Complaint, Balboa denies making any such representations, denies that Plaintiffs would have been entitled to rely on any such representations in light of the terms of the Lease Agreement, and denies any remaining allegations in Paragraph 70 of the Complaint.

71. Denied.

72. Denied.

73. Balboa denies the "Therefore" clause of Plaintiffs' Complaint and states that Plaintiffs are not entitled to the relief they request in the "Therefore" clause or otherwise.

FOR A THIRD DEFENSE
(FAILURE TO STATE A CLAIM)

74. Plaintiffs' claims against Balboa should be dismissed pursuant to Federal Rule of Civil Procedure Rule 12(b)(6) and/or 12(c), as they fail to state a claim for which relief can be granted.

FOR A FOURTH DEFENSE
(CONTRACTUAL LIMITATION)

75. Plaintiffs' claims are barred, in whole or in part, by the contractual limitations of damages contained in the Lease Agreement.

FOR A FIFTH DEFENSE
(LACHES)

76. Plaintiffs' Complaint is barred by the doctrine of laches.

FOR A SIXTH DEFENSE
(WAIVER)

77. Plaintiffs' Complaint is barred by the doctrine of waiver.

FOR A SEVENTH DEFENSE
(ESTOPPEL)

78. Plaintiffs' Complaint is barred by the doctrine of estoppel.

FOR AN EIGHTH DEFENSE
(GOOD FAITH)

79. Balboa at all times acted reasonably, in good faith and with a proper business purpose.

FOR A NINTH DEFENSE
(INTERVENING ACTS OF THIRD PARTIES)

80. Plaintiffs' claims, if any, are the result of acts and omissions of other entities over whom Balboa has no control, barring Plaintiffs' claims against Balboa.

FOR A TENTH DEFENSE
(PUNITIVE DAMAGES UNCONSTITUTIONAL)

81. Plaintiffs' claims for punitive damages violate the Fifth, Sixth, Seventh, Eighth and Fourteenth Amendments of the Constitution of the United States in the following particulars:

- a. Plaintiffs' claim for punitive damages violates the Sixth and Fourteenth Amendments because such damages may be imposed according to the

lesser standard of proof applicable in civil cases, whereas punitive damages are a fine or penalty and are quasi-criminal in nature and, as such, require the "beyond the reasonable doubt" standard as proof;

b. Plaintiffs' claims for punitive damages violate Balboa's right to access to the courts guaranteed by the Seventh and Fourteenth Amendments because the threat of an award of unlimited punitive damages chills Balboa's exercise of that right;

c. Plaintiffs' claims for punitive damages violate the Eighth Amendment guarantee that excessive fines shall not be imposed;

d. Plaintiffs' claims for punitive damages violate the due process and equal protection clauses of the Fourteenth Amendment for the following reasons:

e. The standard or test for determining the requisite mental state of Balboa for imposition of punitive damages is void for vagueness;

f. Insofar as punitive damages are not measured against actual injury to Plaintiffs and are left up to the discretion of the jury, there is no objective standard that limits the amount of such damages that may be awarded, and the amount of punitive damages that may be awarded is indeterminate at the time of Balboa's alleged egregious conduct;

g. The tests or standards for the imposition of punitive damages differ from state to state, such that a specific act or omission of a given defendant may or may not result in the imposition of punitive damages, or may result in differing amounts of punitive damages, depending upon the state in which the suit is filed, such that Balboa is denied equal protection of law; and

h. Punitive damages may be imposed without a requisite showing of hatred, spite, ill will or wrongful motive.

FOR AN ELEVENTH DEFENSE
(FAILURE TO MITIGATE)

82. Plaintiffs have a duty to mitigate their damages in this matter, should any be found to exist, and Plaintiffs' claims are barred or should be reduced by the breach of such duty.

FOR A TWELFTH DEFENSE
(COMPARATIVE NEGLIGENCE)

83. If Plaintiffs sustained injuries and damages in the manner alleged in the Complaint, which injuries and damages are specifically denied by Balboa, then the alleged injuries and damages were sustained not as the result of any fault, neglect, breach, or want of due care on the part of Balboa nor of anyone for whose conduct Balboa is anyway responsible, but solely through the fault, neglect, breach of warranty (express or implied) and want of due care on the part of Plaintiffs, all of which will be shown at the trial of this case, and for which Plaintiffs can have no recovery against Balboa or, in the alternative, for which Plaintiffs' recovery should be appropriately reduced. Plaintiffs' comparative negligence includes, but is not limited to, failing to exercise reasonable care in maintaining her private information.

FOR A THIRTEENTH DEFENSE
(LACK OF STANDING)

84. Plaintiffs lack standing to make the claims asserted against Balboa in this action.

FOR A FOURTEENTH DEFENSE
(UNCLEAN HANDS)

85. That all claims asserted by Plaintiffs are barred by the doctrine of unclean hands.

FOR A FIFTEENTH DEFENSE
(LACK OF JURISDICTION)

86. Plaintiffs' claims are barred as the court lacks jurisdiction over the subject matter of the case.

FOR A SIXTEENTH DEFENSE
(FAILURE TO PLEAD FRAUD IN ACCORDANCE WITH FRCP 9)

87. Plaintiffs' claim for fraud is barred as Plaintiffs have failed to plead all nine elements of fraud.

FOR A SEVENTEENTH DEFENSE
(FRAUD IN THE INDUCEMENT)

88. In the alternative, Plaintiffs' claims are barred, in whole or in part, based on fraud in the inducement.

FOR AN EIGHTEENTH DEFENSE
(IN PARI DELICTO)

89. Plaintiffs' claims are barred, in whole or in part, on the basis of *in pari delicto*.

FOR A NINETEENTH DEFENSE
(PRIOR BREACH)

90. Plaintiffs' claims are barred, in whole or in part, based on prior breach of the Lease Agreement by actions including, but not limited to, failure to pay obligations when due.

FOR A TWENTIETH DEFENSE
(IMPROPER VENUE)

91. Plaintiffs' claims are barred, in whole or in part, pursuant to Rule 12(b)(3) for improper venue.

FOR A TWENTY-FIRST DEFENSE
(SETOFF/RECOUPMENT)

92. Plaintiffs' claims are barred or should be reduced by setoff/recoupment of amounts due and owing by LCR, Leland Rentz and Christina Rentz under the terms of the Lease Agreement.

FOR A TWENTY-SECOND DEFENSE
(CONDITION PRECEDENT)

93. Plaintiffs' claims are barred, in whole or in part, due to a failure to satisfy a condition precedent in the Lease Agreement.

FOR A TWENTY-SECOND DEFENSE
(ADDITIONAL DEFENSES)

94. Balboa hereby gives notice that it reserves the right to assert and does not waive any additional or further defenses as may be revealed upon amendment to the Complaint, discovery, or otherwise and reserves the right to amend this Answer to assert any such defenses.

FURTHER ANSWERING AND
BY WAY OF A FIRST COUNTERCLAIM AGAINST LCR, LELAND RENTZ AND
CHRISTINA RENTZ
(Indemnity)

95. LCR, upon information a limited liability company in good standing and organized under South Carolina law, signed a Lease Agreement with Balboa for the use of the Equipment.

96. Leland Rentz, president of LCR, signed a personal guaranty of the Lease Agreement.

97. Christina Rentz also signed a personal guaranty of the Lease Agreement.

98. The Lease Agreement prohibited LCR from abandoning, releasing, injuring or transferring the Equipment.

99. The Lease Agreement required LCR to make monthly rent payments of \$2,579.54 plus applicable taxes to Balboa.

100. The Lease Agreement covered a base term of sixty (60) months.

101. LCR made some payments pursuant to the terms of the Lease Agreement.

102. Many of LCR's payments under the Lease Agreement were untimely.

103. In July of 2015, representatives of LCM, on behalf of LCR, reached out to Balboa to inquire as to the to upgrade the Equipment to a bigger machine.

104. Balboa indicated that it may be able to accommodate LCR's request for an upgrade, provided LCR financed the new equipment through Balboa and paid remaining amounts due and owing on the Lease Agreement.

105. LCR, by and through LCM, agreed to provide Balboa with a quote for the upgraded equipment so that Balboa and Plaintiffs could discuss pricing and structure for the new agreement.

106. In an attempt to assist in the negotiations of pricing and structure for a new agreement, at LCR's request, Balboa provided a wrap quote reflecting a discounted amount due under the Lease Agreement if the Equipment was traded in and upgraded equipment was leased from Balboa.

107. Plaintiffs and Balboa did not agree on the terms of a new agreement for financing of upgraded equipment.

108. LCR did not comply with the terms of the Lease Agreement by, among other things, failing to pay obligations when due and transferring ownership of the Equipment.

109. LCR was and is not now in compliance with the terms of the Lease Agreement.

110. Neither Leland Rentz nor Christina Rentz have paid amounts due and owing on the Lease Agreement on behalf of LCR.

111. Upon information and belief, LCM received possession of the Equipment from LCR, Leland Rentz and/or Christina Rentz and subsequently transferred the Equipment to a third party.

112. LCR agreed "to reimburse [Balboa] for all charges, costs, expenses and attorney's fees that [Balboa as] to pay to enforce this Lease [Agreement] or collect the Obligations under this Lease [Agreement] and in any lawsuit or other legal proceeding which we bring or defend."

113. Leland Rentz agreed to “reimburse [Balboa] for all expenses [Balboa] incur[s] in enforcing [its] rights against [LCR] or me, including, without limitation, attorney’s fees and costs.”

114. Christina Rentz agreed to “pay [Balboa] all expenses (including attorneys’ fees) incurred by [Balboa] in enforcing [its] rights against [her] or [LCR].”

115. As a direct and consequential result of the failure of LCR, Leland Rentz, and/or Christina Rentz to comply with the terms of the Lease Agreement, Balboa has been deprived of the collateral Equipment, failed to receive payments due and owing under the Lease Agreement, and is exposed to potential liability from Plaintiffs.

116. Moreover, Balboa is entitled to be reimbursed for the costs and attorney’s fees that it incurs in defending against the claims that were the direct and consequent result of LCR, Leland Rentz and/or Christina Rentz’s failure to comply with their legal and contractual obligations to Balboa.

FURTHER ANSWERING AND
BY WAY OF BALBOA’S SECOND COUNTERCLAIM AGAINST LCR, LELAND
RENTZ AND CHRISTINA RENTZ
(Breach of Contract)

117. The allegations contained in the preceding Paragraphs are realleged and incorporated herein by reference.

118. Balboa and LCR entered into a Lease Agreement.

119. Leland Rentz and Christina Rentz personally guaranteed the Lease Agreement.

120. LCR materially breached the Lease Agreement by, among other things, failing to pay obligations when due and transferring ownership of the Equipment.

121. Leland Rentz and Christina Rentz materially breached the terms of the Lease Agreement by, among other things, failing to immediately pay all obligations due under the Lease Agreement, failing to protect and/or transferring ownership of the collateral Equipment,

and failing to reimburse Balboa for expenses incurred in enforcing its rights against LCR including, without limitation, attorney's fees and costs.

122. As a direct and consequent result of the breaches by LCR, Leland Rentz and Christina Rentz, Balboa has been subjected to this litigation, resulting in, among other things a disruption of its business and potential liability to Plaintiffs. Balboa has also been injured in the amounts of the collateral Equipment as well as amounts that remain due and owing on the Lease Agreement.

123. Further, Balboa has been required to expend sums for attorney's fees and costs, all of which were foreseeable to LCR, Leland Rentz, and Christina Rentz as a result of their wrongful conduct.

124. In light of the contractual provisions providing for an award of costs and reasonable attorney's fees, Balboa is entitled to recover the same from LCR, Leland Rentz and Christina Rentz.

FURTHER ANSWERING AND
BY WAY OF BALBOA'S FIRST COUNTERCLAIM AGAINST LCM AND THIRD
COUNTERCLAIM AGAINST LCR, LELAND RENTZ AND CHRISTINA RENTZ
(Declaratory Judgment)

125. The allegations contained in the preceding Paragraphs are realleged and incorporated herein by reference.

126. Balboa is entitled to a declaration of this Court that it is entitled to the ownership of the Equipment and/or its fair market value, remaining amounts due and owing under the Lease Agreement, attorney's fees and other costs and expenses recoverable under the Lease Agreement.

127. LCR entered into a Lease Agreement with LCR.

128. The Lease Agreement had a base term of 60 months.

129. Leland Rentz and Christina Rentz personally guaranteed the Lease Agreement.

130. In July of 2015, LCM, on behalf of LCR, Leland Rentz, and Christina Rentz, reached out to Balboa to inquire as to the potential for LCM to upgrade the Equipment to a bigger machine.

131. LCM acted on behalf of and as the agent of LCR, Leland Rentz and Christina Rentz in attempting to negotiate an upgrade of the Equipment with Balboa.

132. At the time it sought an upgrade of the Equipment, LCR was not in complete compliance with the terms of the Lease Agreement.

133. Balboa indicated that it may be able to accommodate LCR's request for an upgrade, provided LCR lease the new equipment through Balboa and paid a discounted amount of the remaining amounts due and owing on the Lease Agreement.

134. LCR, by and through LCM, agreed to provide Balboa with a quote for the upgraded equipment so that Balboa and Plaintiffs could discuss pricing and structure for the new agreement.

135. In an attempt to assist in the negotiations of pricing and structure for a new agreement, at LCR's request, Balboa provided a wrap quote reflecting amounts that would be due and owing under the Lease Agreement if Balboa were to finance the upgraded equipment for LCM.

136. Plaintiffs and Balboa did not agree on the terms of a new agreement for financing of upgraded equipment.

137. At the time it attempted to transfer more than \$140,000 to Balboa as an attempted payoff, LCR had not complied with all of its obligations under of the terms of the Lease Agreement.

138. At the time it attempted to transfer more than \$140,000 to Balboa as an attempted payoff, the 60 month base term of the lease had not yet expired.

139. LCR materially breached the Lease Agreement by, among other things, failing to pay obligations when due and transferring ownership of the Equipment.

140. Leland Rentz and Christina Rentz materially breached the terms of the Lease Agreement by, among other things, failing to immediately pay all obligations due under the Lease Agreement, failing to protect and/or transferring ownership of the collateral Equipment, and failing to reimburse Balboa for expenses incurred in enforcing its rights against LCR including, without limitation, attorney's fees and costs.

141. Upon information and belief, LCM obtained possession of the collateral Equipment and transferred it to a third party with knowledge that such transfer violated the Lease Agreement and with knowledge that LCR and Balboa had not reached an agreement on the terms of an upgrade of the Equipment.

142. As a direct and consequent result of the actions and omissions of LCM, LCR, Leland Rentz and Christina Rentz, Balboa has been deprived of ownership of collateral Equipment and/or the fair market value of the Equipment as well as amounts that remain due and owing on the Lease Agreement.

143. Further, Balboa has been required to expend sums for attorney's fees and costs, all of which were foreseeable to LCM, LCR, Leland Rentz, and Christina Rentz as a result of their wrongful conduct.

144. Balboa submits that an actual controversy has arisen and exists between Plaintiffs and Balboa regarding the legal rights and duties of the parties with respect to the Equipment and the obligations under the Lease Agreement.

145. As a result, Balboa is informed and believes it is entitled to a speedy hearing of this matter pursuant to Rule 57 of the South Carolina Rules of Civil Procedure and declaratory relief by way of an order determining that Balboa is entitled to the ownership of the Equipment and/or

its fair market value, remaining amounts due and owing under the Lease Agreement, attorney's fees and other costs and expenses recoverable under the Lease Agreement.

FURTHER ANSWERING AND
BY WAY OF BALBOA'S SECOND COUNTERCLAIM AGAINST LCM AND FOURTH
COUNTERCLAIM AGAINST LCR, LELAND RENTZ AND CHRISTINA RENTZ
(Fraud/Misrepresentation)

146. The allegations contained in the preceding paragraphs are realleged and incorporated herein by reference.

147. Plaintiffs represented to Balboa that LCR was interested in trading in its Equipment, paying amounts due and owing under the Lease Agreement, and upgrading to new equipment to be leased from Balboa.

148. In July 2015, Chris Shea, sales representative at LCM, contacted David Sexton at Balboa to request an upgrade of the Equipment to be negotiated directly with Balboa.

149. On or around July 24, 2015, Chris Shea represented to Balboa that he would provide quotes for upgraded equipment and that he intended to discuss pricing and structure for the trade in and upgrade of Equipment with Balboa.

150. Upon information and belief, Plaintiffs' representations to Balboa were false.

151. Upon information and belief, Plaintiffs' representations to Balboa were material.

152. Upon information and belief, Plaintiffs knew that their representations were false or acted in reckless disregard with respect to whether their representations to Balboa were true or false.

153. Upon information and belief, Plaintiffs made such representations to Balboa with the intent that Balboa rely on their representations and supply a wrap quote.

154. Balboa was not aware of the falsity of Plaintiffs' representations.

155. Balboa justifiably relied on Plaintiffs' representations.

156. Based on representations by and on behalf of Plaintiffs, Balboa supplied a wrap quote reflecting a discounted amount due under the Lease Agreement if the Equipment was traded in and upgraded equipment was leased from Balboa.

157. Upon information and belief, Plaintiffs acted recklessly and in conscious disregard of Balboa's rights.

158. As a result of Plaintiffs' representations, Balboa has incurred monetary loss including loss of the collateral Equipment, amounts due and owing under the terms of the Lease Agreement, and sums for attorney's fees and costs.

159. As a result of their fraud and misrepresentations, Balboa is entitled to recover actual and punitive damages from Plaintiffs.

FURTHER ANSWERING AND
BY WAY OF BALBOA'S THIRD COUNTERCLAIM AGAINST LCM AND FIFTH
COUNTERCLAIM AGAINST LCR, LELAND RENTZ, AND CHRISTINA RENTZ
(Unjust Enrichment)

160. The allegations contained in the preceding Paragraphs are realleged and incorporated herein by reference.

161. LCR, Leland Rentz, and Christina Rentz have failed to make payments due and owing under the Lease Agreement.

162. Upon information and belief, LCR, Leland Rentz, and Christina Rentz transferred ownership of the collateral Equipment to LCM in violation of the terms of the Lease Agreement.

163. Upon information and belief, LCM transferred ownership of the Equipment to a third party.

164. Any payments that are owed are properly the obligations of LCR, Leland Rentz, and Christina Rentz.

165. Balboa, not LCM or a third party, is properly entitled to ownership of the collateral Equipment and/or value received in exchange for the Equipment.

166. By virtue of the failure to make payments as required under the terms of the Lease Agreement, LCR, Leland Rentz and Christina Rentz have been unjustly enriched.

167. By virtue of taking ownership of the collateral Equipment which is properly the property of Balboa, LCM has been unjustly enriched.

168. As a result, Balboa is entitled to an order from this Court awarding Balboa monetary damages from Plaintiffs in an amount to be proven at trial along with any other damages, as allowed by law.

FURTHER ANSWERING AND
BY WAY OF BALBOA'S FOURTH COUNTERCLAIM AGAINST LCM AND SIXTH
COUNTERCLAIM AGAINST LCR, LELAND RENTZ, AND CHRISTINA RENTZ
(Civil Conspiracy)

169. The allegations contained in the preceding paragraphs are realleged and incorporated herein by reference.

170. Upon information and belief, Plaintiffs combined for the purposes of depriving Balboa of monies and property it was entitled to under the terms of the Lease Agreement.

171. Upon information and belief, Plaintiffs combined for purposes of deceiving Balboa by requesting a wrap quote, attempting to contend it was a payoff of the full amount owed under the Lease Agreement, and, upon information and belief, selling the collateral Equipment to another person or entity.

172. Plaintiffs knew that by attempting to con Balboa into accepting the insufficient wire and by their transferring ownership of the collateral Equipment, it would injure and deprive Balboa of the collateral Equipment and payments due and owing under the Lease Agreement.

173. As a result of Plaintiffs' conspiracy, Balboa has incurred monetary loss including sums for attorney's fees and costs and special damages including, but not limited to, loss of income resulting from an inability to sell or lease the collateral Equipment to other persons or entities.

WHEREFORE, having fully answered the Complaint, Balboa respectfully requests that the Court dismiss Plaintiffs' claims with prejudice, deny any relief sought in the Complaint, enter judgment in favor of Balboa, and that Balboa be given judgment Plaintiffs, including, but not limited to, Balboa's attorney's fees, costs and other expenses incurred in defending this action, and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

s/Laura F. Locklair

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