

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

TRAVELERS CASUALTY AND SURETY  
COMPANY OF AMERICA

PLAINTIFF

VS.

CAUSE NO.: 4:22cv59-DMB-JMV

JENNIFER COLEMAN, MICHAEL COLEMAN  
AND VIRGINIA COLEMAN

DEFENDANTS

**ANSWER OF MICHAEL COLEMAN AND VIRGINIA COLEMAN**

COME NOW, Defendants, Michael Coleman and Virginia Coleman, by and through counsel, and file this, their initial response to the Complaint filed against them, and while reserving the right to amend or supplement, would state and respond as follows:

**FIRST DEFENSE**

Plaintiff's Complaint fails to state a claim upon which relief may be granted.

**SECOND DEFENSE**

Some or all of Plaintiff's claims are barred by the applicable statute of limitations or period of proscription and any future amendments to the Complaint should not relate back to its original filing.

**THIRD DEFENSE**

And now, answering paragraph by paragraph, these Defendants respond as follows:

1. Upon information and belief, these Defendants admit the allegations of paragraph 1;
2. These Defendants deny that Jennefer Coleman is currently a resident of Mississippi;
3. These Defendants admit that Michael Coleman is currently a resident of Mississippi;
4. These Defendants deny that Virginia Coleman is currently a resident of Mississippi;
5. These Defendants admit that this Court has jurisdiction;
6. These Defendants admit that 28 U.S.C. § 2201 allows courts of competent jurisdiction to declare the rights and other legal relations of a party;

7. These Defendants admit that, under certain circumstances, this Court may possess authority to award injunctive relief but deny that such circumstances exist and/or the Court should refrain from doing so in the present case;
8. These Defendants admit that they resided in Leflore County, Mississippi at the time of the filing of the Complaint. These Defendants deny the remaining allegations of paragraph 8;
9. These Defendants admit that Express Grain filed for bankruptcy protection and previously was in the business of purchasing grain. Defendants deny all remaining allegations of paragraph 9;
10. These Defendants deny, as worded, the allegations of paragraph 10; but admit that Mississippi law require grain dealers and those who store grain for others for charge to be permitted/licensed. Defendants admit as a condition to securing a license, the permittee/licensee must secure a bond;
11. These Defendants admit that they signed the General Contract of Indemnity which is dated June 26, 2019. Defendants deny all remaining allegations of paragraph 11;
12. These Defendants deny, or deny as worded, the allegations of paragraph 12;
13. These Defendants only admit that, if a valid agreement exists, then it speaks for itself;
14. These Defendants only admit that, if a valid agreement exists, then it speaks for itself;
15. These Defendants only admit that, if a valid agreement exists, then it speaks for itself;
16. These Defendants only admit that Travelers issued two bonds on behalf of Express Grain in connection with its application to become licensed;
17. These Defendants admit the allegations of paragraph 17;
18. These Defendants do not have information or knowledge sufficient to make a final belief as to the allegations of paragraph 18 and, therefore, deny the same;
19. Upon information and belief, these Defendants admit the allegations of paragraph 19;

20. These Defendants deny that they have breached any agreement owed Travelers and, in fact, have offered to provide sufficient assurance to Travelers for its any expected loss and have agreed to pay reasonable expenses incurred. These Defendants deny, or deny as worded, the allegations of paragraph 20;
21. These Defendants deny that they have breached any agreement owed Travelers and, in fact, have offered to provide sufficient assurance to Travelers for its any expected loss and have agreed to pay reasonable expenses incurred. These Defendants deny, or deny as worded, the allegations of paragraph 21;
22. These Defendants deny that they have breached any agreement owed Travelers and, in fact, have offered to provide sufficient assurance to Travelers for its expected loss and have agreed to pay reasonable expenses incurred. These Defendants deny, or deny as worded, the allegations of paragraph 22;
23. These Defendants are without information or knowledge sufficient to form a final belief as to the allegation of paragraph 23 and, therefore, deny the same. These Defendants have offered to provide sufficient assurance to Travelers for its expected loss and have agreed to pay reasonable expenses incurred;
24. These Defendants deny the allegations of paragraph 24;
25. No response to the allegations of paragraph 25 is apparently due; however, in the event a response is due, these Defendants would state that further assurance is unnecessary;
26. No response to the allegations of paragraph 26 is apparently due; however, in the event a response is due, these Defendants deny these allegations;
27. As to the allegations of paragraph 27, these Defendants state that the documents speak for themselves. These Defendants further state that they have complied with any obligations owed to Travelers and have agreed to deposit and/or pay sums sufficient to meet Travelers liability, if any, and expenses incurred to date;

28. As to the allegations of paragraph 28, these Defendants state that the documents speak for themselves. These Defendants further state that they have complied with any reasonable obligations owed to Travelers and have agreed to deposit and/or pay sums sufficient to meet Travelers liability, if any, and expenses incurred to date;
29. These Defendants admit that Travelers has made demands for them to pay or deposit an irrevocable letter of credit in the amount of \$1,100,000; however, such a demand is unreasonable and unnecessary. By Travelers' own admission, claims against the \$1,000,000 are unfounded. These Defendants deny all remaining allegations of paragraph 29;
30. These Defendants are without information or knowledge sufficient for form a final belief as to the allegations of paragraph 30 and, therefore, deny the same. Without waiving said response, these Defendants state that they have conditionally offered to pay \$100,000 which represents the total exposure under the \$100,000 bond and \$50,000 of expenses;
31. These Defendants deny the allegations of paragraph 31. Without waiving said response, these Defendants state that they have conditionally offered to pay \$100,000 which represents the total exposure under the \$100,000 bond and \$50,000 of expenses;
32. These Defendants deny the allegations of paragraph 32;
33. These Defendants deny the allegations of paragraph 33;
34. These Defendants deny the allegations of paragraph 34;
35. These Defendants deny the allegations of paragraph 35, and all subparts;
36. These Defendants deny the allegations of paragraph 36;
37. These Defendants deny the allegations of paragraph 37, and all subparts;
38. No response to the allegations of paragraph 38 is apparently due; however, in the event a response is due, these Defendants deny these allegations;
39. No response to the allegations of paragraph 39 is apparently due; however, in the event a response is due, these Defendants deny these allegations;

40. These Defendants deny the allegations of paragraph 40. Without waiving this response, these Defendants have fully complied with all reasonable demands of Travelers; therefore, no actual or justifiable controversies exist between the parties;
41. As to the allegations of paragraph 41, these Defendants state that the documents speak for themselves. These Defendants further state that they have complied with any obligations owed to Travelers and have agreed to deposit and/or pay sums sufficient to meet Travelers liability, if any, and expenses incurred to date;
42. As to the allegations of paragraph 42, these Defendants state that the documents speak for themselves. These Defendants further state that they have complied with any obligations owed to Travelers and have agreed to deposit and/or pay sums sufficient to meet Travelers liability, if any, and expenses incurred to date;
43. As to the allegations of paragraph 43, these Defendants state that the documents speak for themselves. These Defendants further state that they have complied with any obligations owed to Travelers and have agreed to deposit and/or pay sums sufficient to meet Travelers liability, if any, and expenses incurred to date;
44. As to the allegations of paragraph 44, these Defendants state that the documents speak for themselves. These Defendants further state that they have complied with any obligations owed to Travelers and have agreed to deposit and/or pay sums sufficient to meet Travelers liability, if any, and expenses incurred to date;
45. As to the allegations of paragraph 45, these Defendants state that the documents speak for themselves. These Defendants further state that they have complied with any obligations owed to Travelers and have agreed to deposit and/or pay sums sufficient to meet Travelers liability, if any, and expenses incurred to date;
46. No response to the allegations of paragraph 46 is apparently due; however, in the event a response is due, these Defendants deny these allegations;

47. As to the allegations of paragraph 47, these Defendants state that the documents speak for themselves. These Defendants further state that they have complied with any obligations owed to Travelers and have agreed to deposit and/or pay sums sufficient to meet Travelers liability, if any, and expenses incurred to date;
48. These Defendants deny the allegations of paragraph 48;
49. These Defendants deny the allegations of paragraph 49;
50. No response to the allegations of paragraph 50 is apparently due; however, in the event a response is due, these Defendants deny these allegations;
51. As to the allegations of paragraph 51, these Defendants state that the documents speak for themselves. These Defendants further state that they have complied with any reasonable obligations owed to Travelers and have agreed to deposit and/or pay sums sufficient to meet Travelers liability, if any, and expenses incurred to date;
52. These Defendants deny, as worded, the allegations of paragraph 52. Without waiving said response, these Defendants state that they have conditionally offered to pay \$100,000 which represents the total exposure under the \$100,000 bond and \$50,000 of expenses;
53. These Defendants deny the allegations of paragraph 53. Without waiving said response, these Defendants state that they have conditionally offered to pay \$100,000 which represents the total exposure under the \$100,000 bond and \$50,000 of expenses;
54. These Defendants deny the allegations of paragraph 54;
55. These Defendants deny the allegations of paragraph 55;
56. No response to the allegations of paragraph 56 is apparently due; however, in the event a response is due, these Defendants deny these allegations;
57. These Defendants deny the allegations contained in Plaintiff's unnumbered *ad damnum* clause, and specifically deny that Plaintiff is entitled to judgment in or of these Defendants in any amount whatsoever.

FOURTH DEFENSE

Some or all of Plaintiff's claims may be barred by the applicable statute of limitations or period of prescription.

FIFTH DEFENSE

Plaintiff's negligence was the sole and/or proximate contributing cause of Plaintiff's damages, if any.

SIXTH DEFENSE

Plaintiff has a duty to mitigate their damages and if there is a failure to mitigate damages, then there can be no recovery for damages which should have been reasonably mitigated.

SEVENTH DEFENSE

Plaintiff has failed to join necessary and indispensable parties.

EIGHTH DEFENSE

These Defendants affirmatively plead the doctrine of set-off, and accord and satisfaction.

NINTH DEFENSE

These Defendants deny each and every allegation of the Complaint not specifically hereinbefore admitted, regardless of paragraph number or lack thereof, or paragraph letter or lack thereof.

WHEREFORE, PREMISES CONSIDERED, these Defendants, having denied each and every allegation of Plaintiff's Complaint which may impute liability, and having asserted certain affirmative defenses, respectfully request that Plaintiff's Complaint be dismissed with costs assessed against Plaintiff. These Defendants request any further relief which the Court may find warranted in the premises.

Respectfully submitted,

MICHAEL COLEMAN and VIRGINIA COLEMAN

/s/ H. Scot Spragins

H. SCOT SPRAGINS, MSB #7748

Hickman, Goza & Spragins, PLLC

Attorneys at Law

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**CERTIFICATE OF SERVICE**

I, H. Scot Spragins of Hickman, Goza & Spragins, PLLC, Oxford, Mississippi, do hereby certify that I have, this date, filed the above document with the Court, and a copy has been electronically transmitted to counsel of record.

This, the 15<sup>th</sup> day of August, 2022.

/s/ H. Scot Spragins

H. SCOT SPRAGINS