

SUPREME COURT OF THE STATE OF NEWYORK
COUNTY OF NEW YORK

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ADAM SANDERS and RANDI SANDERS

Index No. 654992/20

Plaintiff,

ANSWER

-against-

EDISON BALLROOM LLC,

Defendant.

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Defendant Edison Ballroom, LLC by its attorney Nathan M. Ferst, as and for its Answer to the Complaint:

1. With respect to ¶1 of the Complaint, avers that Defendant leases the event space at which Defendant operates Defendant's business.
2. With respect to ¶2 of the Complaint, avers that Defendant licenses the event space to third parties for various occasions.
3. With respect to ¶¶3, 4, 5, 7, 8, 9, 10, 11, 12, and 14 of the Complaint, respectfully refers the attention of the Court to the contents of the referenced Agreement and Executive Orders and the import thereof, and otherwise denies knowledge or information sufficient to form a belief as to each and every allegation set forth therein.
4. With respect to ¶6 of the Complaint, avers that Plaintiff and Defendant agreed to postpone the event complained of.
5. Denies each and every allegation set forth in ¶¶13, 16, and 19 of the Complaint.
6. Denies knowledge or information sufficient to form a belief as to the allegations of ¶¶15 and 17 of the Complaint.

7. With respect to ¶18 of the Complaint, denies any obligation to refund the referenced deposit, denies that said deposit is due and owing to Plaintiff, denies that Defendant is in breach of the Contract between Plaintiff and Defendant, and otherwise denies each and every allegation set forth therein.

FIRST DEFENSE

8. The Complaint fails to state any claim upon which relief may be granted.

SECOND DEFENSE

9. Plaintiff's action is barred by the unlawful relief which it seeks.

THIRD DEFENSE

10. If Plaintiff is granted the relief sought by Plaintiff, Plaintiff will be unjustly enriched at the expense of Defendants.

FOURTH DEFENSE

11. Plaintiff's claims are barred by the doctrines of laches, waiver, ratification, estoppel and/or unclean hands.

FIFTH DEFENSE

12. To the extent the Plaintiff has sustained losses, they were caused by third parties over whom the Defendant had and has no control.

SIXTH DEFENSE

13. Plaintiff's claims are barred, in whole or in part, by accord and satisfaction.

SEVENTH DEFENSE

14. To the extent that Plaintiff has sustained damages, Plaintiff has failed to mitigate those damages.

EIGHTH AFFIRMATIVE DEFENSE AND FIRST COUNTERCLAIM

15. Defendant repeats and realleges the contents of ¶¶1 through and including 14 hereof as though same were fully set forth herein again at length.

16. Defendant repeats and realleges the contents of ¶¶1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 14, and 15 of the Complaint herein as though same were fully set forth herein again at length.

17. The situation faced by the parties as a result of the foregoing is so unprecedented and extraordinary so that cancellation of the Contract between Plaintiff and Defendant and concomitant refund of the subject deposit would be harsh, inequitable, destructive of the economic viability and, indeed, existence of Defendant, be contrary to purpose of the Contract, and work an injustice.

18. Under all of the attendant circumstances, equity and good conscience require this Court to fashion a remedy which will allow the parties to have the benefit of their bargain.

19. The proper remedy is not cancellation of the Contract between the parties but, rather, suspension of the rights and obligations of the parties until the passing of the present emergency and its limitations at which time the contracted for event can be held and the parties' having the benefit of their bargain.

20. In order to safeguard the rights and liabilities of the parties, equity and good conscience require this Court to declare that the Contract between the parties is not canceled but, rather, continues in force and effect with the rights and obligations of the parties suspended until the passing of the present emergency and its limitations and that, upon such passing, the contracted for event shall be held.

21. Defendant has no adequate remedy at law.

WHEREFORE, Defendant pray this Court for judgment:

- (a) dismissing the Complaint with prejudice;
- (b) on the first counterclaim, declaring that the Contract between the parties is not canceled but, rather, continues in force and effect with the rights and obligations of the parties suspended until the passing of the present emergency and its limitations and that, upon such passing, the contracted for event shall be held;
- (c) awarding Defendant its costs and disbursements; and
- (d) awarding Defendant such other and further relief as this Court may deem just and proper.

Nathan M. Ferst, Esq.
Attorney for Defendant

By: _____
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