

SUPREME COURT OF THE STATE OF
NEW YORK COUNTY OF NEW YORK

BEAST INVESTMENTS, LLC,

Plaintiff,

v.

CELEBRITY VIRTUAL DINING, LLC, VIRTUAL
CONCEPTS HOLDINGS, INC., and VIRTUAL
DINING CONCEPTS, LLC,

Defendants,

Index No. 653908/2023

**ANSWER TO COUNTER-
CLAIMANTS’
COUNTERCLAIMS**

and

VIRTUAL DINING CONCEPTS, LLC,
CELEBRITY VIRTUAL DINING, LLC, and
VIRTUAL DINING OPERATIONS, LLC,

Counter-Claimants,

v.

BEAST INVESTMENTS, LLC and
JIMMY DONALDSON,

Counterclaim Defendants.

Counterclaim Defendants Beast Investments, LLC (“Beast Investments”) and Jimmy Donaldson (collectively, “Beast Parties”), by their attorneys, hereby answer, based on knowledge and belief, the allegations in the Counterclaims filed by Counter-Claimants Celebrity Virtual Dining, LLC (“CVD”), Virtual Dining Concepts, LLC (“VDC”), and Virtual Dining Operations, LLC (“VDO”) (collectively, “Virtual Dining”).

The Beast Parties deny each and every allegation contained in the Counterclaims, including all footnotes, citations, headings, and subheadings, without limitation, except for the allegations

the Beast Parties expressly admit herein, or the allegations for which the Beast Parties lack knowledge or information sufficient to form a belief as to their truth or falsity. The Beast Parties expressly reserve the right to further supplement, amend, or revise this Answer.

INTRODUCTION

61. The Beast Parties deny the allegations in paragraph 61.

62. The Beast Parties deny the allegations in paragraph 62, including the allegations in footnote 2.

63. The Beast Parties deny the allegations in paragraph 63.

64. The Beast Parties lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 64 and, on that basis, deny them.

65. The Beast Parties lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 65 and, on that basis, deny them.

66. The Beast Parties admit that Virtual Dining approached Mr. Donaldson about a virtual restaurant branded as “MrBeast Burger” in exchange for a share of the revenue from that business. The Beast Parties admit that Mr. Donaldson is a fast-growing digital creator and has a loyal and extensive fan-base. The Beast Parties admit that Mr. Donaldson is the most-subscribed individual user on YouTube. The Beast Parties deny the remaining allegations in paragraph 66.

67. The Beast Parties admit that, on September 3, 2020, Mr. Donaldson and Beast Investments entered into the Endorsement and Services Agreement (“ESA”) with VDC. The Beast Parties admit that both parties agreed to not “make any disparaging, false, misleading or otherwise defamatory comments about the other, this Agreement, the Brand, or any of their members, managers, officers, employees, agents, consultants, affiliates, products and/or services.” NYSCEF No. 41. The Beast Parties deny the remaining allegation in paragraph 67.

68. The Beast Parties admit that in November 2020: (a) a pop-up event was organized and held in Wilson, North Carolina; (b) Mr. Donaldson and his friends gave away free meals, cash and prizes at the event; and (c) the Beast Parties elected to close the restaurant after speaking to police to minimize traffic disruption. The Beast Parties lack sufficient knowledge regarding exactly how long the line of customers was or what specific issues the police were handling, and, on that basis, deny the same. The Beast Parties deny the remaining allegations of paragraph 68.

69. The Beast Parties admit that Mr. Donaldson posted a YouTube video featuring the pop-up event and announcing the launch of MrBeast Burger. The Beast Parties lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 69 and, on that basis, deny them.

70. The Beast Parties deny the allegations in paragraph 70.

71. The Beast Parties deny the allegations in paragraph 71.

72. The Beast Parties deny the allegations in paragraph 72.

73. The Beast Parties deny the allegations in paragraph 73.

74. The Beast Parties admit that there were complaints about the MrBeast burgers, that the MrBeast burgers received bad reviews, and that there were unsatisfied customers. The Beast Parties deny the remaining allegations in paragraph 74.

75. The Beast Parties lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 75 and, on that basis, deny them, except admit that MrBeast Burger depended on the efforts of hundreds of restaurants, and, importantly, Virtual Dining's ability and willingness to maintain quality control among them.

76. The Beast Parties lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegation that Virtual Dining has decades of restaurant and business

experience and, on that basis, deny it. The Beast Parties deny the remaining allegations in paragraph 76.

77. The Beast Parties admit that Mr. Donaldson tweeted the screenshotted post on or about June 9, 2023. The Beast Parties deny the remaining allegations in paragraph 77.

78. The Beast Parties admit that Mr. Donaldson tweeted the screenshotted post on or about June 16, 2023 in response to a follower. The Beast Parties deny the remaining allegations in paragraph 78.

79. The Beast Parties admit that Mr. Donaldson tweeted the screenshotted post on or about July 20, 2023 in response to a dissatisfied MrBeast Burger customer. The Beast Parties deny the remaining allegations in paragraph 79.

80. The Beast Parties deny the allegations in paragraph 80.

81. The Beast Parties deny the allegations in paragraph 81.

82. The Beast Parties deny the allegations in paragraph 82, except admit that Virtual Dining purports to bring counterclaims against the Beast Parties.

PARTIES

83. The Beast Parties lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 83 and, on that basis, deny them.

84. The Beast Parties lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 84 and, on that basis, deny them.

85. The Beast Parties lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 85 and, on that basis, deny them.

86. The Beast Parties deny the allegations made in paragraph 86, except admit that Beast Investments is a North Carolina limited liability company with its principal place of business

in Greenville, North Carolina. Paragraph 86 also alleges a legal conclusion by claiming that Beast Investments is “the alter ego” of Mr. Donaldson, to which no response is required.

87. The Beast Parties admit that Mr. Donaldson is a resident of North Carolina.

88. The Beast Parties deny the allegations in Paragraph 88 including, among other reasons, because it contains legal conclusions as to which no response is required.

JURISDICTION AND VENUE

89. Paragraph 89 contains legal conclusions as to which no response is required.

90. Paragraph 90 contains legal conclusions as to which no response is required.

FACTUAL ALLEGATIONS

91. The Beast Parties lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegation that Virtual Dining specializes in linking pre-existing restaurant kitchens with virtual restaurant brands and, on that basis, deny it. The Beast Parties admit that the parties debuted a virtual restaurant brand in 2020. The Beast Parties deny the remaining allegations in paragraph 91.

92. The Beast Parties deny any misconduct by Mr. Donaldson. The Beast Parties lack knowledge and information sufficient to form a belief as to the remaining allegations in paragraph 92, and, on that basis, deny them.

93. The Beast Parties admit that there were complaints concerning the quality, timeliness of delivery, and/or wrong orders by customers. The Beast Parties admit that there were millions of sales of MrBeast Burger products. The Beast Parties lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning Door Dash and Uber Eats and, on that basis, deny them. The Beast Parties deny the remaining allegations.

The Endorsement and Services Agreement

94. The Beast Parties admit that, on September 3, 2020, Mr. Donaldson and Beast Investments entered into the ESA with CVD. The Beast Parties admit that the parties agreed that Mr. Donaldson “is a celebrity whose identity and services have commercial value” and that the Beast Parties agreed to CVD utilizing Mr. Donaldson’s “image, likeness, voice, picture and photograph, signature, biographical data, endorsement and statements,” subject to the terms of the ESA. The Beast Parties deny the remaining allegations in paragraph 94.

95. The Beast Parties admit that the ESA provided for a four-year term. The Beast Parties admit that the parties agreed that Beast Investments would cause Mr. Donaldson (1) “to participate in photo shoots and/or production sessions for the creation of Materials for a minimum of two (2) days per Contract Year”; (2) “to provide ongoing social media support through postings from [Mr. Donaldson’s] account”; (3) “to participate in a minimum of two (2) days of personal appearances on behalf of [CVD]”; (4) “to mention and/or integrate the Brand at appropriate times”; and (5) “to provide a minimum of two (2) approved quotes per Contract Year,” all subject to the terms of the ESA. NYSCEF No. 41. The Beast Parties deny the remaining allegations in paragraph 95.

96. The Beast Parties admit that the parties agreed that “any and all intellectual property developed for the Brand shall be the joint property of, and the entire right, title, and interest therein shall be jointly owned by [CVD] and [Beast Investments], excluding any rights in and to [Mr. Donaldson’s] Attributes, which shall continue to be owned exclusively by [Beast Investments] and licensed to [CVD] pursuant to this Agreement.” NYSCEF No. 41. The Beast Parties deny the remaining allegations in paragraph 96.

97. The Beast Parties admit that the parties agreed to not “make any disparaging, false, misleading or otherwise defamatory comments about the other, this Agreement, the Brand, or any

of their members, managers, officers, employees, agents, consultants, affiliates, products and/or services.” NYSCEF No. 41. The Beast Parties deny the remaining allegations in paragraph 97.

98. The Beast Parties admit that Mr. Donaldson’s mother executed the ESA as an authorized representative of Beast Investments. The Beast Parties deny the remaining allegations in paragraph 98.

The Letter Agreement

99. The Beast Parties admit that Mr. Donaldson negotiated to acquire a greater interest in the MrBeast Burger venture. The Beast Parties deny all remaining allegations in paragraph 99.

100. The Beast Parties admit that, on or about January 24, 2022, Beast Investments and VDC entered into a Letter Agreement, which contemplated the formation of a jointly owned entity between Beast Investments and VDC “or an affiliate thereof” and that the parties would use good faith, commercially reasonable efforts to negotiate and finalize further definitive agreements to govern the parties’ rights and obligations. The Beast Parties further admit that the Letter Agreement provided for the amendment of certain portions of the ESA, including (1) extending the term of the ESA indefinitely “for so long as the MrBeast Burger virtual dining restaurant brand continues to operate”; (2) agreeing to open and manage MrBeast Burger brick and mortar restaurants; and (3) forming a Florida limited liability company to own the brick and mortar restaurants, all subject to the terms of the ESA and Letter Agreement. NYSCEF No. 58. The Beast Parties deny the remaining allegations in paragraph 100.

Donaldson and BI Attempt to Further Procure an Even Greater Stake in MrBeast Burger and Improperly Reap Exclusive Profits from Brand Merchandise and Trademarks¹

101. The Beast Parties deny the allegations in paragraph 101.

102. The Beast Parties deny the allegations in paragraph 102.

¹ The Beast Parties deny all allegations in this heading.

103. The Beast Parties admit that Beast Holdings, LLC applied to register the MrBeast Burger trademark in the United States and other foreign jurisdictions. The Beast Parties deny the remaining allegations in paragraph 103.

Donaldson and BI Falsely Accuse Virtual Dining of “Breach” and Purport to Terminate the Agreements²

104. The Beast Parties admit that Beast Investment’s counsel sent Virtual Dining a letter on March 30, 2023 asserting that Virtual Dining was in material breach of the ESA and Letter Agreement. The Beast Parties deny the remaining allegations in paragraph 104.

105. The Beast Parties deny the allegations in paragraph 105.

106. The Beast Parties deny the allegations in paragraph 106.

107. The Beast Parties admit that Mr. Donaldson tweeted metrics concerning improvements in his social media exposure. The Beast Parties admit that Mr. Donaldson’s management company stated on social media that Mr. Donaldson “now has more than 430M followers across all of his social channels;” that “he’s the fastest growing YouTuber this year . . .;” that “he’s doubled his average views (in 30 days) per YouTube video since 2022;” that “he’s the fastest growing TikTok channel from January to May (15.5M new followers);” and that “Jimmy’s Instagram has seen the most growth of all his social platforms this year (+150%),” ending with “Not bad for the first half of 2023, can’t wait to see where he’s at at the end of 2023.” The Beast Parties deny all remaining allegations in paragraph 107.

108. The Beast Parties deny the allegations in paragraph 108.

109. The Beast Parties admit that in its counsel’s March 30, 2023 letter to Virtual Dining, counsel for Beast Parties asserted that CVD and VDC filed international trademark

² The Beast Parties deny all allegations in this heading.

registrations for Mr. Donaldson's Attributes without any right to do so and without Beast Investment's advanced, written approval and authorization in violation of the ESA and the Beast Parties' trademark rights. The Beast Parties deny the remaining allegations in paragraph 109.

110. The Beast Parties admit that in its counsel's March 30, 2023 letter to Virtual Dining, counsel for Beast Parties asserted that Virtual Dining materially breached the Letter Agreement by failing to create a jointly owned limited liability company, failing to create the required operating agreement, and failing to permit the Beast Parties to appoint a manager of the business. The Beast Parties deny the remaining allegations in paragraph 110.

111. The Beast Parties deny the allegations in paragraph 111.

112. The Beast Parties admit to receiving Virtual Dining's April 5, 2023 letter. The Beast Parties deny the remaining allegations in paragraph 112.

BI and Donaldson Hijack MrBeast Burger's Social Media Accounts and Knowingly and Intentionally Disparage and Damage the Brand and Its Business³

113. The Beast Parties admit that they did not withdraw their notice of breach or threat to terminate the parties' agreement. The Beast Parties deny the remaining allegation in paragraph 113.

114. The Beast Parties admit that Virtual Dining posted to the "MrBeast Burger" Twitter, TikTok, and Instagram accounts an announcement of MrBeast Burger's launch in Mexico and Ireland. The Beast Parties lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning Virtual Dining's business relationship with Social Supply Co. and, on that basis, deny them. The Beast Parties deny the remaining allegations in paragraph 114.

115. The Beast Parties admit that Mr. Donaldson tweeted the screenshotted post. The

³ The Beast Parties deny all allegations in this heading.

Beast Parties deny the remaining allegations in paragraph 115.

116. The Beast Parties admit to the existence of the screenshotted Amazon.com review.

The Beast Parties deny the remaining allegations in paragraph 116.

117. The Beast Parties admit that Mr. Donaldson tweeted the screenshotted post on or about June 9, 2023.

118. The Beast Parties deny the allegations in paragraph 118.

119. The Beast Parties admit that Mr. Donaldson tweeted the screenshotted post. The Beast Parties deny the remaining allegations in paragraph 119.

120. The Beast Parties admit that Mr. Donaldson tweeted the screenshotted post. The Beast Parties deny the remaining allegations in paragraph 120.

121. The Beast Parties admit that Mr. Donaldson tweeted the screenshotted post. The Beast Parties deny the remaining allegations in paragraph 121.

122. The Beast Parties admit that the above-referenced tweets were deleted. The Beast Parties lack knowledge sufficient to form a belief regarding the online articles identified in paragraph 122 and, on that basis, deny the remaining allegations of paragraph 122.

123. The Beast Parties deny the allegations in paragraph 123.

AS AND FOR A FIRST COUNTERCLAIM
(Breach of the ESA – Against BI and Donaldson)

124. The Beast Parties repeat and re-assert their responses to all prior paragraphs.

125. The Beast Parties admit that the ESA is a valid and enforceable contract between CVD and the Beast Parties.

126. The Beast Parties deny the allegations in paragraph 126.

127. The Beast Parties deny the allegations in paragraph 127.

128. The Beast Parties deny the allegations in paragraph 128.

AS AND FOR A SECOND COUNTERCLAIM
(Breach of the Letter Agreement – Against BI)

129. The Beast Parties repeat and re-assert their responses to all prior paragraphs.

130. The Beast Parties admit that the Letter Agreement is a valid and enforceable contract between VDC and Beast Investments to the extent that the parties agreed to negotiate definitive terms, subject to the terms of the Letter Agreement.

131. The Beast Parties deny the allegations in paragraph 131.

132. The Beast Parties deny the allegations in paragraph 132.

133. The Beast Parties deny the allegations in paragraph 133.

AS AND FOR A THIRD COUNTERCLAIM
(Breach of the Implied Covenant of Good Faith and Fair Dealing – Against BI and Donaldson)

134. Virtual Dining’s Third Counterclaim was dismissed by the Court’s Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 134.

135. Virtual Dining’s Third Counterclaim was dismissed by the Court’s Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 135.

136. Virtual Dining’s Third Counterclaim was dismissed by the Court’s Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 136.

137. Virtual Dining’s Third Counterclaim was dismissed by the Court’s Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 137.

138. Virtual Dining’s Third Counterclaim was dismissed by the Court’s Decision +

Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 138.

139. Virtual Dining’s Third Counterclaim was dismissed by the Court’s Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 139.

AS AND FOR A FOURTH COUNTERCLAIM
(Injunction – Against BI and Donaldson)

140. Virtual Dining’s Fourth Counterclaim was dismissed by the Court’s Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 140.

141. Virtual Dining’s Fourth Counterclaim was dismissed by the Court’s Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 141.

142. Virtual Dining’s Fourth Counterclaim was dismissed by the Court’s Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 142.

143. Virtual Dining’s Fourth Counterclaim was dismissed by the Court’s Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 143.

144. Virtual Dining’s Fourth Counterclaim was dismissed by the Court’s Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 144.

AS AND FOR A FIFTH COUNTERCLAIM
(Tortious Interference With Contractual Relations – Against Donaldson)

145. Virtual Dining's Fifth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 145.

146. Virtual Dining's Fifth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 146.

147. Virtual Dining's Fifth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 147.

148. Virtual Dining's Fifth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 148.

149. Virtual Dining's Fifth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 149.

150. Virtual Dining's Fifth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 150.

151. Virtual Dining's Fifth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 151.

152. Virtual Dining's Fifth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph

152.

153. Virtual Dining's Fifth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph

153.

AS AND FOR A SIXTH COUNTERCLAIM

(Tortious Interference With Prospective Business Advantage – Against Donaldson)

154. Virtual Dining's Sixth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph

154.

155. Virtual Dining's Sixth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph

155.

156. Virtual Dining's Sixth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph

156.

157. Virtual Dining's Sixth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph

157.

158. Virtual Dining's Sixth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph

158.

159. Virtual Dining's Sixth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph

159.

160. Virtual Dining's Sixth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 160.

161. Virtual Dining's Sixth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 161.

162. Virtual Dining's Sixth Counterclaim was dismissed by the Court's Decision + Order On Motion, dated May 30, 2024, and, accordingly, no response is required for paragraph 162.

AS AND FOR A SEVENTH COUNTERCLAIM
(Declaratory Judgment – ESA)

163. The Beast Parties repeat and re-assert their responses to all prior paragraphs.

164. The Beast Parties admit that they have asserted that CVD breached the ESA and that CVD disputes that it breached the ESA. The Beast Parties deny the remaining allegations of paragraph 164.

165. The Beast Parties deny that CVD is entitled to the relief set forth in paragraph 165.

AS AND FOR AN EIGHTH COUNTERCLAIM
(Declaratory Judgment – Letter Agreement)

166. The Beast Parties repeat and re-assert their responses to all prior paragraphs.

167. The Beast Parties admit that they have asserted that VDC breached the Letter Agreement and that VDC disputes that it breached the Letter Agreement. The Beast Parties deny the remaining allegations of paragraph 167.

168. The Beast Parties deny that VDC is entitled to the relief sought in paragraph 168.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

169. The Counterclaims fail to state a cause of action against the Beast Parties upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

(Material Breach)

170. The Counterclaims are barred, in whole or in part, because the material breaches of contractual obligations owed by Virtual Dining pursuant to the ESA, the Letter Agreement, and a December 2022 letter of intent executed by the parties.

THIRD AFFIRMATIVE DEFENSE

(Failure of Performance)

171. The Counterclaims are barred, in whole or in part, because any lack of performance by the Beast Parties is excused due to Virtual Dining's non-performance or breach for at least the reasons asserted in the Beast Parties' Complaint, which are incorporated herein by reference.

FOURTH AFFIRMATIVE DEFENSE

(Failure to Mitigate Damages)

172. Virtual Dining is barred from recovery, in whole or in part, by virtue of its failure to take appropriate steps to avoid and/or mitigate damages.

FIFTH AFFIRMATIVE DEFENSE

(Laches)

173. Virtual Dining is barred from recovery, in whole or in part, by the doctrine of laches.

SIXTH AFFIRMATIVE DEFENSE

(Unclean Hands)

174. Virtual Dining is barred from recovery, in whole or in part, by the doctrine of unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

(Estoppel)

175. Virtual Dining is barred from recovery, in whole or in part, by the doctrine of estoppel.

EIGHTH AFFIRMATIVE DEFENSE

(Lack of Damages)

176. Upon information and belief, no damages have been sustained by Virtual Dining based on the causes of action alleged in the Counterclaims.

NINTH AFFIRMATIVE DEFENSE

(Documentary Evidence)

177. Virtual Dining's claims are barred, in whole or in part, by documentary evidence.

TENTH AFFIRMATIVE DEFENSE

(Lack of Causation)

178. The Counterclaims are barred, in whole or in part, by a lack of causation.

ELEVENTH AFFIRMATIVE DEFENSE

(Damages Speculative)

179. Virtual Dining's claims are barred, in whole or in part, because the alleged damages and injury, if any, are purely speculative and impossible to prove or allocate.

TWELFTH AFFIRMATIVE DEFENSE**(Offset)**

180. The Counterclaims are barred, in whole or in part, because any claim to damages must be offset and/or reduced by the amount that Virtual Dining owes to the Beast Parties.

THIRTEENTH AFFIRMATIVE DEFENSE**(No Irreparable Harm)**

181. The Virtual Dining's claims for injunctive relief are barred because Virtual Dining cannot show that it has or will suffer irreparable harm from the Beast Parties' alleged actions.

FOURTEENTH AFFIRMATIVE DEFENSE**(Reservation of Rights)**

182. The above defenses and affirmative defenses are based on the facts and information currently known to the Beast Parties. The Beast Parties reserve the right to amend or add defenses or affirmative defenses based on facts later discovered, pleaded, or offered. The Beast Parties' exclusion of matters for which Virtual Dining bears the burden of proof from this Answer should not be construed as a waiver of the Beast Parties' right and ability to answer such matters in the future.

RESERVATION OF ADDITIONAL DEFENSES

183. The Beast Parties do not presently know all facts concerning Virtual Dining's conduct and counterclaims sufficient to state all affirmative defenses at this time. The Beast Parties will seek leave of the Court to amend should it later discover facts demonstrating the existence of additional affirmative defenses. The Beast Parties reserve any and all additional affirmative defenses available to it.

DEMAND FOR JURY TRIAL

184. The Beast Parties demand a trial by jury for all issues so triable.

Dated: June 13, 2024
New York, New York

Respectfully submitted,

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/s/ Emily Pidot

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