

COURT OF COMMON PLEAS  
FULTON COUNTY, OHIO

The Farmers & Merchants State Bank, ) Case No. 11CV000128  
 )  
Plaintiff, ) Judge Barber  
 )  
-vs- ) **PLAINTIFF'S ANSWER TO CROSS-**  
 ) **CLAIM AND COUNTERCLAIM OF**  
Archbold Elevator Inc., et al., ) **DEFENDANT FENSTERMAKER**  
 ) **FARMS, INC.**  
 )  
Defendants. )  
 ) David J. Coyle (0038966)  
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For its Answer to the Cross-Claim and Counterclaim of Defendant Fenstermaker Farms, Inc. ("FFI") (the "Counterclaim"), Plaintiff The Farmers & Merchants State Bank ("Farmers") states as follows:

1. Farmers is without information or knowledge sufficient to form a belief as to the truth of the averments contained in paragraph 1 of the Counterclaim, and therefore denies them.

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2. Farmers admits the averments contained in paragraph 2 of the Counterclaim.

3. Farmers admits that it has a first and best lien on and security interest in all assets of defendants Archbold Elevator, Inc., Kainos Operations Ltd., O-MI-O Inc., Henry Pig Inc., Williams L. Fricke, and Lynette K. Fricke, denies that FFI has a superior lien on or interest in the assets of defendants Archbold Elevator, Inc., Kainos Operations Ltd., O-MI-O Inc., Henry Pig Inc., Williams L. Fricke, and Lynette K. Fricke, and is without information or knowledge sufficient to form a belief as to the truth of the remaining averments contained in paragraph 3 of the Counterclaim, and therefore denies them.

4. Farmers restates and incorporates by reference paragraphs 1 through 3 above.

5. Farmers is without information or knowledge sufficient to form a belief as to the truth of the averments contained in paragraph 5 of the Counterclaim, and therefore denies them.

6. Farmers is without information or knowledge sufficient to form a belief as to the truth of the averments contained in paragraph 6 of the Counterclaim, and therefore denies them.

7. Farmers is without information or knowledge sufficient to form a belief as to the truth of the averments contained in paragraph 7 of the Counterclaim, and therefore denies them.

8. Farmers is without information or knowledge sufficient to form a belief as to the truth of the averments contained in paragraph 8 of the Counterclaim, and therefore denies them.

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9. Farmers restates and incorporates by reference paragraphs 1 through 8 above.

10. Farmers states that it has a first and best lien on and security interest in all assets of defendants Archbold Elevator, Inc., Kainos Operations Ltd., O-MI-O Inc., Henry Pig Inc., Williams L. Fricke, and Lynette K. Fricke, denies that FFI has a superior lien on or interest in the assets of defendants Archbold Elevator, Inc., Kainos Operations Ltd., O-MI-O Inc., Henry Pig Inc., Williams L. Fricke, and Lynette K. Fricke, and is without information or knowledge sufficient to form a belief as to the truth of the remaining averments contained in paragraph 10 of the Counterclaim, and therefore denies them.

11. Farmers states that it has a first and best lien on and security interest in all assets of defendants Archbold Elevator, Inc., Kainos Operations Ltd., O-MI-O Inc., Henry Pig Inc., Williams L. Fricke, and Lynette K. Fricke, denies that FFI has a superior lien on or interest in the assets of defendants Archbold Elevator, Inc., Kainos Operations Ltd., O-MI-O Inc., Henry Pig Inc., Williams L. Fricke, and Lynette K. Fricke, and is without information or knowledge sufficient to form a belief as to the truth of the remaining averments contained in paragraph 11 of the Counterclaim, and therefore denies them.

12. Farmers states that it has a first and best lien on and security interest in all assets of defendants Archbold Elevator, Inc., Kainos Operations Ltd., O-MI-O Inc., Henry Pig Inc., Williams L. Fricke, and Lynette K. Fricke, denies that FFI has a superior lien on or interest in the assets of defendants Archbold Elevator, Inc., Kainos Operations Ltd., O-MI-O Inc., Henry Pig Inc., Williams L. Fricke, and Lynette K. Fricke, and is without information or knowledge sufficient to form a belief as to the truth of the

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remaining averments contained in paragraph 12 of the Counterclaim, and therefore denies them.

13. Farmers admits that it has a first and best lien on and security interest in all assets of defendants Archbold Elevator, Inc., Kainos Operations Ltd., O-MI-O Inc., Henry Pig Inc., Williams L. Fricke, and Lynette K. Fricke, denies that FFI has a superior lien on or interest in the assets of defendants Archbold Elevator, Inc., Kainos Operations Ltd., O-MI-O Inc., Henry Pig Inc., Williams L. Fricke, and Lynette K. Fricke, and is without information or knowledge sufficient to form a belief as to the truth of the remaining averments contained in paragraph 13 of the Counterclaim, and therefore denies them.

14. Farmers denies all averments contained in the Counterclaim not affirmatively admitted herein.

#### **AFFIRMATIVE DEFENSES**

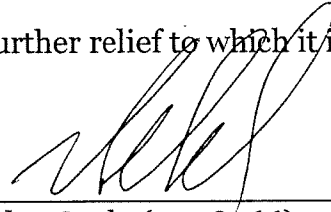
15. FFI fails to state a claim against Farmers upon which relief can be granted.

16. Farmers holds the first and best lien on and security interest in all assets of defendants Archbold Elevator, Inc., Kainos Operations Ltd., O-MI-O Inc., Henry Pig Inc., Williams L. Fricke, and Lynette K. Fricke, including and any proceeds therefrom.

17. FFI's claims are barred, in whole or in part, by accord and satisfaction, payment, waiver, assumption of the risk, estoppel, the statute of frauds, and the statute of limitations.

18. Farmers reserves the right to assert additional affirmative defenses as they become known through discovery.

**WHEREFORE**, Plaintiff The Farmers & Merchants State Bank demands that FFI's counterclaims against Farmers be dismissed with prejudice, and that Farmers recover its costs, expenses, attorneys' fees, and any further relief to which it is entitled.



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Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing **Plaintiff's Answer to Cross-Claim and Counterclaim of Defendant Fenstermaker Farms, Inc.** was sent on June 9, 2011, by first class United States mail, postage prepaid, upon the following:

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