

COURT OF COMMON PLEAS
FULTON COUNTY, OHIO

The Farmers & Merchants State Bank,)	No. 11CV000128
)	
Plaintiff,)	[Hon. James E. Barber]
)	
v.)	ANSWER OF WILLIAM L. FRICKE AND
)	LYNETTE K. FRICKE TO
Archbold Elevator Inc., et al.,)	CROSS-CLAIM OF DEFENDANT
)	<u>FENSTERMAKER FARMS, INC.</u>
Defendants.)	
)	[Brian C. Kalas (0070963)
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)	Attorneys for Defendants William L. Fricke
)	and Lynette K. Fricke]

For their answer to the Cross-claim of defendant Fenstermaker Farms, Inc. (“FFI”), defendants William L. Fricke and Lynette K. Fricke, designated herein as “Defendants” state as follows:

ANSWER

1. Defendants lack knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 1 and therefore deny same.
2. Defendants admit the averments set forth in paragraph 2.
3. Defendants admit the averments set forth in paragraph 3.
4. Defendants admit the incorporation by reference of paragraphs 1 through 3 of the Cross-claim, and in response thereto, adopt by reference paragraphs 1 through 3 above.
5. Defendants admit the averments set forth in paragraph 5.

6. Defendants lack knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 6 and therefore deny same.

7. Defendants lack knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 7 and therefore deny same.

8. Defendants lack knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 8 and therefore deny same.

9. Defendants admit the incorporation by reference of paragraphs 1 through 8 of the Complaint, and in response thereto, adopt by reference paragraphs 1 through 8 above.

10. Defendants admit the averments set forth in paragraph 10.

11. Defendants state that the document speaks for itself. Further answering, defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 11 and therefore deny same.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 12 and therefore deny same.

13. Defendants lack knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 13 and therefore deny same.

14. Defendants deny each and every averment not otherwise admitted herein to be true.

AFFIRMATIVE DEFENSES

1. Defendants state that the Cross-claim of FFI fails to state a claim upon which relief may be granted.

2. Defendants state that FFI has failed to join all necessary and/or dispensable parties to this action.

3. Defendants state that FFI has failed to mitigate its damages, if any.

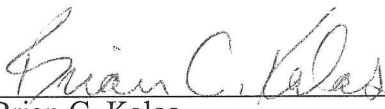
4. Defendants state that the claims and cross-claims of FFI are barred by the doctrines of waiver and estoppel.

5. Defendants reserve the right to assert additional affirmative defenses as discovery proceeds.

WHEREFORE, defendants William L. Fricke and Lynette K. Fricke demand that the Cross-Claim of defendant Fenstermaker Farms, Inc. as filed herein against them be dismissed on the merits, and that they be permitted to go hence without delay and to recover their costs, including attorneys fees, incurred herein.

Of Counsel for Defendants William L. Fricke
and Lynette K. Fricke:

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Answer of William L. Fricke and Lynette K. Fricke to Cross-claim of Defendant Fenstermaker Farms, Inc.* was duly served either by facsimile or ordinary U. S. Mail this 30th day of June, 2011 upon:

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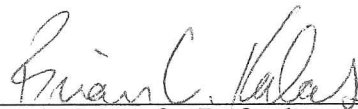
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