

STATE OF INDIANA )  
 )SS:  
COUNTY OF KOSCIUSKO )

IN THE KOSCIUSKO CIRCUIT COURT  
CAUSE NO. 43C01-1602-MI-47

GERRY LEE POWELL and, )  
PATRICIA ANN POWELL, )  
Plaintiffs, )  
 )  
 )  
EPWORTH FOREST ADMINISTRATION )  
COMMITTEE, INC., )  
Defendant. )

**DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT**

COMES NOW the Defendant, Epworth Forest Administration Committee, Inc., by counsel, Bloom Gates & Whiteleather, LLP, and for their answer to Plaintiff's Complaint would state as follows:

1. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of Plaintiff's Complaint.
2. Defendant admits the allegations contained in paragraph 2 of Plaintiff's Complaint.
3. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of Plaintiff's Complaint.
4. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of Plaintiff's Complaint.
5. Defendant admits the allegations contained in paragraph 5 of Plaintiff's Complaint.
6. Defendant denies the allegations contained in paragraph 6 of Plaintiff's Complaint.

## AFFIRMATIVE DEFENSES

Defendant, Epworth Forest Administration Committee, Inc., by counsel, and for their further answer and defense to Plaintiff's Complaint, allege and state the following affirmative defenses:

1.     **Failure to State a Cause of Action.** Plaintiff has failed to allege facts sufficient to support a claim against Defendant under Indiana law.
2.     **Failure to State a Claim.** Plaintiff's Complaint does not contain a discernable claim against Defendant.
3.     **Laches.** Plaintiff has failed to timely assert any claim against Defendant.
4.     **Res Judicata.** This Court has previously issued an Order which Order bars this action.
5.     **Attorney Fees.** Pursuant to this Court's Order of April 15, 2014, EFAC has the right to recover its reasonable attorney fees if it prevails in an action related to a pier assignment.
6.     Pursuant to Indiana Trial Rule 19, Plaintiff has failed to join a person necessary for just adjudication and this matter should be dismissed pursuant to Indiana Trial Rule 12(B)(7). The property rights of Robert J. Miller and Debra S. Miller (identified as the "Lakefront Lot" in Plaintiff's Complaint) are a necessary party for the just adjudication of this matter.
7.     Defendant reserves the right to amend or assert additional defenses, should such defenses become apparent throughout the course of discovery.

WHEREFORE, Defendant pray for judgment of the Court that Plaintiff take nothing by way of its Complaint, and for all other right and proper relief in the premises.

Respectfully submitted,

BLOOM GATES & WHITELEATHER



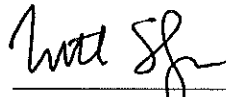
Matthew R. Shipman (Atty. No. 20664-49)  
Attorneys for Defendant

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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the above and foregoing has been served upon Plaintiff, by first class mail, on the 4<sup>th</sup> day of March, 2016 at the address of record as follows:

Stephen Snyder  
200 W Main St  
Syracuse, IN 46567



Matthew R. Shipman