

**EXHIBIT “A”**

E-FILED IN OFFICE - MX  
CLERK OF SUPERIOR COURT  
GWINNETT COUNTY, GEORGIA  
21-A-04512-4  
6/11/2021 3:13 PM  
TIANA P. GARNER, CLERK

IN THE SUPERIOR COURT OF GWINNETT COUNTY

STATE OF GEORGIA

Optum Construction Group, LLC  
\_\_\_\_\_  
\_\_\_\_\_

CIVIL ACTION NUMBER: 21-A-04512-4

PLAINTIFF

VS.

✓ Ethicon, Inc.  
\_\_\_\_\_  
\_\_\_\_\_

DEFENDANT

**SUMMONS**

TO THE ABOVE NAMED DEFENDANT:


You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

**G. Marshall Kent, Jr.  
Fox Rothschild LLP  
999 Peachtree Street, Suite 1500  
Atlanta, Georgia 30309**

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 11TH day of JUNE, 2021.

Tiana P. Garner  
Clerk of Superior Court

By   
Deputy Clerk

INSTRUCTIONS: Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used.

SC-1 Rev. 2011

IN THE SUPERIOR COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

OPTUM CONSTRUCTION GROUP,  
LLC,

Plaintiff,

v.

ETHICON, INC.,

Defendant.

CIVIL ACTION FILE NO.

21-A-04512-4

COMPLAINT

COMES NOW Plaintiff Optum Construction Group, LLC (“Optum”), a licensed Georgia commercial general contractor, and states its claims against Defendant Ethicon, Inc. (“Ethicon”), a New Jersey corporation and wholly owned operating subsidiary of Johnson & Johnson, Inc., as follows:

1.

Plaintiff Optum is a Georgia limited liability company that maintains its principal place of business in Gainesville, Hall County, Georgia. Optum is engaged in the business of providing labor and materials for the performance of commercial construction projects as a licensed commercial general contractor. Optum’s member(s) reside in Georgia.

2.

Defendant Ethicon is a New Jersey corporation that maintains its registered agent and office in Gwinnett County, Georgia. Ethicon may be served with a Summons and service copy of this Complaint through service upon Ethicon’s registered agent, CT Corporation System, 289 Culver Street, Lawrenceville, Gwinnett County, Georgia 30046-4805.

3.

Jurisdiction and venue are proper in this Court because Defendant Ethicon maintains its registered agent in Gwinnett County.

4.

Defendant Ethicon operates and maintains a large plant and manufacturing facility that is located at 655 Ethicon Circle, Cornelia, Habersham County, Georgia 30531. Optum hereby brings this action to recover monies owed Optum by Ethicon, totaling \$951,634.00, for certain work performed and/or supervised by Optum on the Ethicon AHU 17A Project, located at 655 Ethicon Circle, Cornelia, Habersham County, Georgia 30531 (the "Project"). Optum is also owed retainage for its work performed and completed some time ago for a Project called the "Sparks Project," that was also performed at the Ethicon plant, in the amount of \$82,903.00.

5.

Optum served as the outside general contractor for Plant Projects at Ethicon for many years. Optum would be compensated for its work pursuant to Purchase Orders issued by Ethicon, the timing of which was generally determined by Ethicon Plant construction managers/supervisors. These managers/supervisors dealt with internal budgets that contemplated how and what specific work would be directed to be performed, and how the costs thereof would be allocated internally within the Company.

6.

On or about July 5, 2018, and based on design drawings prepared by Stewart Engineering, an engineering consultant regularly used by Ethicon Plant personnel, a \$1.4 million Purchase Order was issued to Optum for installation of an Air Handling Unit, that was originally contemplated by Stewart's drawings to be installed on an elevated platform "penthouse," where Ethicon then

maintained its mechanical, electrical, plumbing and HVAC controls for the Plant. A true and accurate copy of that Purchase Order is attached hereto as Exhibit "1". However, in early August of 2018, after Optum and Ethicon's internal managers conducted a further assessment of the Project as initially planned/designed (that resulted in the discovery of material structural issues and deficiencies in the plan/design based on the weight of the unit and inadequacy of the foundation to accommodate the Unit), Optum was directed by Ethicon to consult one or more outside engineering firms, and arrange for a preliminary layout for a freestanding mechanical building to house the AHU 17A Project. This layout was obtained by Optum from Trinity Engineering, a reputable Gainesville firm.

7.

Thereafter, Mr. Raymond Harris of Ethicon (Ethicon's Onsite Facilities Engineer – Georgia) issued a directive to Mr. Ed Maxwell of Optum instructing Optum to proceed to obtain new (civil, architectural, and structural, as well as mechanical, electrical and plumbing) drawings for a freestanding mechanical building. Optum proceeded to arrange for these drawings, and in February and March of 2019, Ethicon proceeded to evaluate the requested drawings for the erection of the freestanding building, that was two and a half times the square footage/size of the original proposed penthouse.

8.

~~The revised foundation and site drawings were considered, as was the fact that substantial~~  
demolition work and relocation of plumbing, piping and other utilities would be involved in the contemplated improvements. Ethicon representatives were made fully aware of all relevant design issues by June of 2019.

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