

# EXHIBIT “B”

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

-----X  
TEISILA CAUTHEN,

Plaintiff,

-against-

CUDGE REALTY, LLC, and HARRY IRWIN, INC.,

Defendants.  
-----X

INDEX NO.: 150771/2024

**VERIFIED ANSWER**  
**WITH CROSS CLAIMS**

Defendant, CUDGE REALTY, LLC, by its attorneys, LAW OFFICES OF FISHMAN AND CABRERA, answering the Complaint of the plaintiff herein, alleges upon information and belief:

1. Denies knowledge or information sufficient to form a belief as to paragraphs designated “1”, “13”, “14”, “15”, “17”, “18”, “19”, “20” and “21” of the Complaint.
2. Admits as to paragraphs “2”, “3” and “4” of the Complaint.
3. Denies as to paragraphs designated “5”, “6”, “7”, “8”, “9”, “10”, “11”, “12”, “16”, “22”, “23”, “24”, “25”, “26”, “27”, “28”, “29”, “30” and “32” of the Complaint.
4. Denies as to paragraph designated “31” of the Complaint and states statute speaks for itself.
5. Any paragraph not specifically delineated herein is deemed denied.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

6. That if the plaintiff suffered any damages, said damages were caused in whole or in part by the plaintiff’s failure to take reasonable action in mitigation of the same.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

7. The damages allegedly sustained by plaintiff were caused wholly or in part by reason of the culpable conduct of said plaintiff and not by the conduct of the answering defendant, but should the answering defendant be found liable then said defendant is entitled to

an apportionment of fault and an appropriate reduction in the amount of any judgment otherwise recoverable by plaintiff.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

8. That if the plaintiff sustained any injuries and/or damages at the time and place alleged in the Complaint, same were wholly caused by the culpable conduct and/or negligence of some other party or persons over whom defendant had no control and for whose culpable conduct and/or negligence defendant was not and is not responsible or liable.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

9. That the Court does not have jurisdiction over the person of the defendant, due to improper service of process.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

10. Pursuant to CPLR Article 16, if this defendant is held responsible for plaintiff's injuries, then this/these answering defendant will be liable only for its percentage/equitable share on the non-economic loss awarded to the plaintiff.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

11. Pursuant to CPLR §4545 (c), any award to the plaintiff for economic loss shall be reduced by the amount of economic loss reimbursed by collateral sources.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

12. The plaintiff did not sustain a serious injury as defined by Section 5102 of the Insurance Law of the State of New York, and plaintiff's exclusive remedy, therefore, is confined and limited to the benefits and provisions of Article "51" of the Insurance Law of the State of New York.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

13. All claims by plaintiff and/or third party plaintiff in this litigation are barred as against the answering defendant/third party defendant pursuant to the exclusive remedy

provisions of the New York State Worker's Compensation Law, sections 11 and 29, and the New York State General Obligations Law Article 18-A, as amended and/or enacted on or about September 10, 1996.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

14. That if the plaintiff sustained any injuries and/or damages at the time and place alleged in the Complaint, same were wholly caused by the culpable conduct and/or negligence of some other party or persons over whom defendant had no control and for whose culpable conduct and/or negligence defendant was not and is not responsible or liable.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

15. If the plaintiff sustained damages as alleged, such damages occurred while plaintiff was engaged in an activity into which she entered, knowing the hazard, risk and danger of the activity and she assumed the risks incidental to and attending the activity.

**AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE**

16. That the Complaint of the plaintiff fails to state a cause of action against this/these answering defendant.

**AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE**

17. The answering defendant did not have exclusive custody or control of the location where the injuries and/or damage is alleged to have occurred.

**AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE**

18. The answering defendant did not have notice, actual or constructive, of the alleged condition.

**AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE**

19. The alleged condition was trivial.

**AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE**

20. The alleged injuries and damages were not proximately caused by any act or omission of the answering defendant.

**AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE**

21. The condition was open and obvious.

**AS AND FOR A SEVENTEENTH AFFIRMATIVE DEFENSE**

22. The answering defendant was not responsible for structural repairs.

**AS AND FOR A FIRST CROSS CLAIM  
AGAINST THE DEFENDANT, HARRY IRWIN, INC.**

23. If plaintiff sustained the injuries and damages in the manner and at the time and place alleged, and if it is found that the answering defendant is liable to plaintiff, then the answering defendant, on the basis of apportionment of responsibility for the alleged occurrence, is entitled to indemnification and contribution from, and judgment over against, the above-named co-defendant for all or part of any judgment thus obtained by the plaintiff against the answering defendant.

**AS AND FOR A SECOND CROSS CLAIM  
AGAINST THE DEFENDANT, HARRY IRWIN, INC.**

24. Said co-defendant entered into an agreement with answering defendant which requires co-defendant to hold harmless, indemnify and otherwise fully reimburse answering defendant for all costs and expenses incurred as a result of this lawsuit, including but not limited to payment of any judgment, payment of attorneys' fees and payment of all other costs and expenses incurred by answering defendant, and/or which required the procurement of insurance coverage for the benefit of answering defendant, and answering defendant is entitled to judgment against co-defendant for all costs and expenses incurred herein.

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