

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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Empire Coffee Company Inc.	:	Index No.:
	:	
Plaintiff,	:	Date Index No. Purchased:
	:	
	:	SUMMONS
-against-	:	Plaintiff designates
	:	Westchester County as the
Essex House Coffee Co. Inc., and Thomas	:	place of trial; Venue is based
Ocera,	:	on CPLR 503
	:	Plaintiff's address is 106
	:	Purdy Avenue, Port Chester,
Defendants.	:	New York 10573
	:	
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TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Verified Complaint in this action and serve a copy of your answer on the Plaintiff's undersigned attorney within 20 days after the service of this summons, exclusive of the day of service (or 30 days if this summons is not personally delivered to you within New York State). In case of your failure to appear or answer, judgment will be taken against you by default, in accordance with the Verified Complaint herein.

Dated: July 22, 2022
Harrison, New York

LAW OFFICE OF LAWRENCE M. SEGAN

By: _____
Lawrence M. Segan
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*Attorney for Plaintiff
Empire Coffee Company Inc.*

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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Empire Coffee Company Inc.	:	Index No.:
	:	
Plaintiff,	:	
-against-	:	VERIFIED COMPLAINT
Essex House Coffee Co. Inc., and Thomas	:	
Ocera,	:	
	:	
Defendants.	:	
-----	X	

Plaintiff Empire Coffee Company Inc. (“Empire”), by and through its undersigned attorney, as and for its Verified Complaint against Defendant Essex House Coffee Co. Inc. (“Essex”) and Defendant Thomas Ocera (“Ocera,” and with Essex, the “Defendants”), alleges as follows:

FACTS

1. This is a simple case. The Defendants have refused to pay for coffee purchased from Empire and owe Empire not less than \$17,529.77 for unpaid invoices.
2. Empire is a coffee company with its principal place of business in Port Chester, New York. Empire roasts, grinds and packages coffee for its customers.
3. According to its website, and upon information and belief, Essex is (or was) a coffee company that sells coffee to offices, deli’s, restaurants, and cafés. *See* <https://essexhousecoffee.com/>. Empire has since discovered that Essex was dissolved by proclamation in 2016, and as a result Empire has also brought this action against Ocera personally because Ocera acted and purported to act as the CEO and sole owner of Essex.
4. In 2019, Defendants entered into a relationship with Empire and began to purchase coffee from Empire.

5. Over the course of the parties' relationship, Defendants made multiple purchase orders from Empire. Empire fulfilled those purchase orders and, pursuant to the terms of the parties' agreement, Empire invoiced Essex for those purchase orders

6. Pursuant to the parties' agreement, payment was due within 30 days of receipt of an invoice.

7. In 2022, Defendants stopped paying Empire's invoices. As a result, Defendants now have overdue invoices payable to Empire in an amount not less than \$17,529.77. A ledger reflecting these past due invoices is annexed here as Exhibit A.

8. Empire's CEO Robert Richter has made repeated requests to Defendants for payment, but they refuse to pay.

9. Ocera has told Richter that payment is not required because some of the boxes in which the coffee was delivered were brown and not white, and because some of the boxes lacked coffee filters.

10. These are not valid reasons not to pay Empire. Importantly, Richter alerted Ocera that Empire could not provide white boxes and coffee filters for every order. Nonetheless, Defendants ordered coffee from Empire, Empire prepared the coffee for Defendants, Empire delivered the coffee to Defendants, and, upon information and belief, Defendants used the coffee by selling that coffee.

11. Defendants have never asserted any credible rationale for not paying Empire's invoices.

12. Due to Defendants repeated refusals to pay these invoices, Empire had no choice but to commence this lawsuit to recover the \$17,529.77 that Defendants owe to Empire.

13. Empire has also been forced to bring this lawsuit against Ocera personally.

14. Ocera represented in a customer intake form to Empire dated in 2019 that Essex was a company then in existence.

15. Ocera continued to make these representations throughout the parties' relationship by having Essex submit purchase orders to Empire for coffee.

16. However, when preparing this lawsuit, Empire discovered that Essex, formerly a domestic New York business corporation, was dissolved by proclamation and has been inactive since October 26, 2016.

17. Thus, Ocera's failure to respect the corporate form renders him personally liable for the outstanding and unpaid invoices due and payable to Empire.

18. In addition, since Defendants refused payment after repeated requests from Empire, Ocera has, upon information and belief, contacted at least one customer of Empire and made slanderous statements about Empire to a customer of Empire, purportedly making statements that, in words or substance, "Empire really sucks" and that Empire is a "terrible company." Although Empire is not, by this action, pursuing claims for slander, Empire reserves its right to do so.

THE PARTIES

19. At all relevant times, Empire was and is a corporation organized and existing under the laws of the State of New York, with its principal place of business at 106 Purdy Avenue, Port Chester, New York 10573.

20. At all relevant times, Empire believed that Essex was a New York domestic business corporation, and accordingly Empire's invoices were directed to Essex, in the care of its purported Chief Executive Officer and owner Ocera. However, upon preparing this lawsuit, Empire learned from the New York Secretary of State's website that Essex was dissolved by

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