

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JOSHUA BRINN,

Plaintiff,

-against-

CV 09 1151  
(TCP) (WDW)

**ANSWER**

SYOSSET PUBLIC LIBRARY, MORRIS DUFFY  
ALONSO & FALEY, UTICA NATIONAL  
INSURANCE COMPANY, JUDITH LOCKMAN,  
Director of the SYOSSET PLUBLIC LIBRARY  
In her individual and professional  
Capacities, ROBERT GLICK, Trustee of  
the SYOSSET PUBLIC LIBRARY in his  
individual and professional capacities,

Defendants.  
-----X

Defendant, MORRIS DUFFY ALONSO & FALEY, by its attorneys, L'ABBATE,  
BALKAN, COLAVITA & CONTINI, L.L.P., as and for its answer to the complaint of the plaintiff,  
JOSHUA BRINN, respectfully alleges as follows:

1. Denies each and every allegation contained in paragraph numbered "1" of the complaint.
2. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "2" of the complaint.
3. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "4" of the complaint except admits that the plaintiff was a white male.

4. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "5" of the complaint.

5. Denies each and every allegation contained in paragraph numbered "6" of the complaint except admits that defendant, Morris Duffy Alonzo & Faley, is a limited liability partnership law firm located in New York, New York.

6. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered "8" and "9" of the complaint.

7. Denies each and every allegation contained in paragraph numbered "10" of the complaint except denies knowledge or information sufficient to form a belief as to whether defendant, Syosset Public Library, was acting under color of law and whether Utica National Insurance Company was acting under color of law by participating and/or conspiring in joint activity with the Syosset Public Library and its agents.

8. Denies each and every allegation contained in paragraphs numbered "11" and "12" of the complaint.

9. Deny knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered "13", "14", "15", "16", and "17" of the complaint.

**AS AND FOR AN ANSWER TO COUNT I**

10. Repeats, reiterates and realleges each and every response applicable to the allegations set forth in paragraph "18" of the complaint as though fully set forth at length herein.

11. Denies each and every allegation contained in paragraph numbered "20" of the complaint.

12. Deny knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered "23", "24", and "25" of the complaint.

13. Denies each and every allegation contained in paragraph numbered "26", "27", and "29" of the complaint.

14. Denies each and every allegation contained in paragraph numbered "30" of the complaint except admits that at various times from March 19, 2008 through April 16, 2008 Faley and Alonso, partners in Morris Duffy Alonso & Faley, requested that plaintiff withdraw his notice of claim against defendant, Syosset Public Library, as he could not continue suing a client of the firm.

15. Denies each and every allegation contained in paragraph numbered "31" of the complaint except admits that plaintiff withdrew his first notice of claim.

16. Denies each and every allegation contained in paragraphs "32", "33", and "34" of the complaint.

17. Deny knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "35" of the complaint.

18. Denies each and every allegation contained in paragraph numbered "36" of the complaint.

**AS AND FOR AN ANSWER TO COUNT II**

19. Repeats, reiterates and realleges each and every response applicable to the allegations set forth in paragraph "37" of the complaint as though fully set forth at length herein.

20. Denies each and every allegation contained in paragraph numbered "38" of the complaint.

**AS AND FOR AN ANSWER TO COUNT III**

21. Repeats, reiterates and realleges each and every response applicable to the allegations set forth in paragraph "39" of the complaint as though fully set forth at length herein.

22. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "40" of the complaint.

**AS AND FOR AN ANSWER TO COUNT IV**

23. Repeats, reiterates and realleges each and every response applicable to the allegations set forth in paragraph "41" of the complaint as though fully set forth at length herein.

24. Denies each and every allegation contained in paragraph numbered "42" of the complaint.

**AS AND FOR AN ANSWER TO COUNT V**

25. Repeats, reiterates and realleges each and every response applicable to the allegations set forth in paragraph "43" of the complaint as though fully set forth at length herein.

26. Denies each and every allegation contained in paragraph numbered "44" of the complaint.

**AS AND FOR AN ANSWER TO COUNT VI**

27. Repeats, reiterates and realleges each and every response applicable to the allegations set forth in paragraph "45" of the complaint as though fully set forth at length herein.

28. Denies each and every allegation contained in paragraph numbered "46" of the complaint.

**AS AND FOR AN ANSWER TO JURY DEMAND**

29. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "47" of the complaint.

**AS AND FOR A FIRST SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE**

30. The plaintiff voluntarily abandoned his position with this answering defendant.

**AS AND FOR A SECOND SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE**

31. The plaintiff was an at-will employee and his employment could be terminated at any time for any reason.

**AS AND FOR A THIRD SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE**

32. The plaintiff had unclean hands in that he voluntarily terminated his employment with the plaintiff by abandoning his position after he had voluntarily terminated his claim against the Syosset Public Library.

**AS AND FOR A FOURTH SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE**

33. The plaintiff should be estopped from seeking any equitable remedies in this action as he voluntarily terminated his claim against the Syosset Public Library and voluntarily abandoned his position with this answering defendant.

**AS AND FOR A FIFTH SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE**

34. This answering defendant has received evidence after the plaintiff voluntarily abandoned his position which would have merited the termination of his employment for cause.

**AS AND FOR A SIXTH SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE**

35. This answering defendant had a legitimate business and professional reason to request that the plaintiff terminate his claim against the Syosset Public Library because if he had not done so it would have placed this answering defendant into a conflict of interests with a substantial amount of business which would have caused serious economic harm to the plaintiff.

**AS AND FOR A SEVENTH SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE**

36. The complaint fails to state a cause of action against this answering defendant.

**AS AND FOR AN EIGHTH SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE**

37. The plaintiff has failed to mitigate damages.

WHEREFORE, defendant demands judgment dismissing the complaint together with the costs and disbursements of this action.

L'ABBATE, BALKAN, COLAVITA  
& CONTINI, L.L.P.

By: 

\_\_\_\_\_  
Peter L. Contini, Esq.

Attorneys for Defendant

MORRIS, DUFFY, ALONSO & FALEY

1001 Franklin Avenue

Third Floor

Garden City, New York 11530

(516)294-8844

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK    )  
                                  ) SS.:  
COUNTY OF NASSAU    )

**KAREN R. LUCERO**, being duly sworn, deposes and says that deponent is not a party to the action, is over 18 years of age and resides at Nassau County, New York.

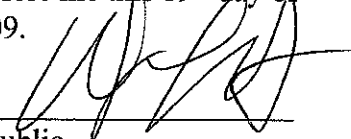
That on the 19<sup>th</sup> day of August, 2009 deponent served the within **ANSWER** upon:

LAW OFFICE OF RAYMOND NARDO  
Attorney for Plaintiff  
129 Third Street  
Syosset, New York 11501

the attorney(s) for the respective parties in this action, at the above address(es) designated by said attorney(s) for that purpose by depositing same enclosed in a postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York.

  
**KAREN R. LUCERO**

Sworn to before me this 19<sup>th</sup> day of  
August, 2009.

  
\_\_\_\_\_  
Notary Public

PETER L. CONTINI  
Notary Public, State of New York  
No. 4637417  
Qualified in Suffolk County  
Commission Expires July 31, 2010