

**CAUSE NO. 2023-14607**

**FM 529 SQUARE, INC.**

**v.**

**THUY DIEM HUYNH**

§  
§  
§  
§  
§

**IN THE DISTRICT COURT OF**

**HARRIS COUNTY, TEXAS**

**234<sup>th</sup> JUDICIAL DISTRICT**

**DEFENDANT'S ORIGINAL ANSWER, VERIFIED DENIAL AND AFFIRMATIVE DEFENSES**

Thuy Diem Huynh, Defendant, hereby files her Original Answer, Verified Denial and Affirmative Defenses and would respectfully show the Court as follows:

**GENERAL DENIAL**

1. Defendant asserts a general denial as is authorized by Rule 92 of the Texas Rules of Civil Procedure. Defendant respectfully requests that Plaintiff be required to prove the charges and allegations against Defendant by a preponderance of the evidence as is required by the Constitution and laws of the State of Texas. Also, Defendant reserves the right to amend her answer at a future date in accordance with the Texas Rules of Civil Procedure.

**VERIFIED DENIAL**

2. Defendant hereby specifically denies the following allegations of Plaintiff's Original Petition as required by Rule 93 of the Texas Rules of Civil Procedure:

3. Defendant specifically denies the accuracy of the sworn account, if any, set forth in Plaintiff's Original Petition.

**AFFIRMATIVE DEFENSES**

4. Defendant denies every allegation in the Original Petition not expressly admitted herein and avers that Plaintiff is not entitled to any relief sought in the Original Petition.

5. Defendant denies that all conditions precedent to a right of recovery have been satisfied or alleged.

6. Plaintiff's claims are barred and any alleged failure to perform by Defendant is

excused because of one or more material obligations of the subject contract and lease have not been satisfied by Plaintiff and no theft occurred.

7. Plaintiff's damages, if any, were proximately caused by the act, omissions or breaches of other persons and/or entities and the acts, omissions or breaches were intervening and superseding causes of Plaintiff's alleged damages.

8. If in fact a legally binding contract exists between the parties, Plaintiff was required to provide a habitable premises in which Defendant could work with quiet enjoyment – Plaintiff failed to do so. In particular, the subject premises became a target of hate crime against the Asian community – Plaintiff had the affirmative duty to ramp up security to protect Defendant and her customers; but instead, turned a blind eye to the detriment of Defendant and her customers in Plaintiff's never-ending pursuit of saving an extra buck.

9. If in fact a legally binding contract exists between the parties, Defendant made improvements to the subject property which more than offset the amount of rent being sought by Plaintiff.

10. Plaintiff failed to mitigate its damages. In particular, the property which is the subject of this lawsuit is a commercial leased space. Accordingly, Plaintiff has the legal duty to actively market the property for lease to a new tenant; however, Plaintiff has taken no action to do so.

### **PRAYER FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, Defendant prays that, upon final hearing or trial on this matter, that the Court render take-nothing judgment against Plaintiff, assess cost against Plaintiff, and award Defendant such other and further relief, both in equity and in law, that Defendant may show herself entitled.

Respectfully submitted,

VILT LAW, P.C.

By: 

ROBERT C. VILT

Texas Bar Number 00788586

Email: [clay@viltlaw.com](mailto:clay@viltlaw.com)

MICHAEL E. BERTOLATUS

Texas Bar Number 24090503

Email: [michael@viltlaw.com](mailto:michael@viltlaw.com)

5177 Richmond Avenue, Suite 1142

Houston, Texas 77056

Telephone: 713.840.7570

Facsimile: 713.877.1827

ATTORNEYS FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I certify that the above foregoing document was served upon all counsel and/or parties of record in accordance with the Texas Rules of Civil Procedure via electronic and/or hand delivery on the 3<sup>rd</sup> day of April 2023.

Andrew P. McCormick  
Laurie A. Landry Munoz  
4950 Bissonnet Street, Suite A  
Bellaire, Texas 77401  
*Attorneys for Plaintiff*

/s/ Robert C. Vilt  
Robert C. Vilt

### Automated Certificate of eService

This automated certificate of service was created by the e filing system. The filer served this document via email generated by the e filing system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Nicolas Vilt on behalf of Robert Vilt

Bar No. 788586

nicolas@viltlaw.com

Envelope ID: 74266300

Filing Code Description: Answer/ Response / Waiver

Filing Description: Defendant's Original Answer, Verified Denials, and Affirmative Defenses

Status as of 4/3/2023 12:42 PM CST

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Michael EBertolatus		michael@viltlaw.com	4/3/2023 12:32:23 PM	SENT
Nicolas Vilt		nicolas@viltlaw.com	4/3/2023 12:32:23 PM	SENT
Robert C. Vilt		clay@viltlaw.com	4/3/2023 12:32:23 PM	SENT
Andrew P. McCormick		andy@mmtxtrial.com	4/3/2023 12:32:23 PM	SENT
Laurie Landry Munoz		laurie@mmtxtrial.com	4/3/2023 12:32:23 PM	SENT