

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT DEPARTMENT
DOCKET NO.: 2484CV02931-H

DANY ABOUELKHIER,)
Plaintiff / Defendant-in-Counterclaim,)
)
v.)
)
VIRTUAL FULFILLMENT CENTER, LLC,)
MOHAMED KASSEM,)
OMAR NEAMATALLA,)
MOHAMMED ALI, and)
AHMED KASEM,)
Defendants / Plaintiffs-in-Counterclaim.)

**DEFENDANTS' / PLAINTIFFS-IN-COUNTERCLAIMS' OPPOSITION TO
PLAINTIFF'S / DEFENDANT-IN-COUNTERCLAIM'S MOTION TO STRIKE
COUNTERCLAIMS; AND CROSS-MOTION FOR COUNTERCLAIMS TO REMAIN
AND BE RESPONDED TO WITHIN 10 DAYS**

NOW COME the Defendants / Plaintiffs-in-Counterclaim Virtual Fulfillment Center, LLC ("VFC"), Mohamed Kassem ("Mr. Kassem"), Omar Neamatalla ("Mr. Neamatalla"), Mohamed Ali ("Mr. Ali"), and Ahmed Kasem ("Mr. Kasem") (collectively referred to as the "VFC Parties"), and hereby oppose the Plaintiff / Defendant-in-Counterclaim Dany Abouelkhier's ("Mr. Abouelkhier") Motion to Strike Counterclaims.¹ The VFC Parties also cross-move and request this Court to allow the Counterclaims to remain, and for Mr. Abouelkhier to responsively plead to said Counterclaims within ten (10) days of the allowance of this cross-motion.

The VFC Parties argue and state as follows:

1. This case concerns multiple disputes regarding a domestic limited liability company, VFC (a food business exclusively for take-out / delivery service).

¹ The motion was served via e-mail on March 31, 2025, not March 30 as indicating in the certificate of service.

2. The lawsuit was filed on November 7, 2024, whereby the Plaintiff Mr. Abouelkhier sought a temporary restraining order / preliminary injunction to enjoin a hearing before the City of Boston Zoning Board of Appeal on an application to seek a take-out license for VFC.
3. VFC filed an opposition to Mr. Abouelkhier's motion for temporary restraining order with Affidavits, and filed its own Motion for Preliminary Injunction on November 14, 2024.
4. Mr. Abouelkhier's motion for temporary restraining order was heard on November 14, 2024, and was denied.
5. VFC's Motion for Preliminary Injunction was not heard on November 14, 2024.
6. Thereafter, the parties engaged in unsuccessful settlement discussions.
7. On or around January 22, 2025, counsel for the VFC Parties received a purported demand letter pursuant to M.G.L. c. 93A.
8. Since the dispute had not resolved, the VFC Parties filed and served an Answer, Affirmative Defenses, Counterclaims, and Jury Demand on February 11, 2025.
9. Mr. Abouelkhier did not seek a request for default before February 11, 2025.
10. No default was entered as to any defendants before February 11, 2025.
11. VFC and the VFC Parties filed a responsive pleading to the Plaintiff's Complaint before the tracking order due date for an answer of March 7, 2025.
12. The VFC Parties do not believe the filing of the Counterclaims was procedurally defective.
13. It is in the interest of justice for the Counterclaims to remain, and for all claims to be litigated and resolved in this instant case.
14. Mr. Abouelkhier is not prejudiced by the filing of Counterclaims.

15. To the extent the VFC Parties need leave of Court for the filing of their Answer, Affirmative Defenses, Counterclaims, and Jury Demand, they herenow move this Court to allow their responsive pleading to remain, pursuant to Mass. R. Civ. P. 12, 13, and/or 15.
16. On February 28, 2025, Mr. Abouelkhier filed a Motion for Extension of Time requesting an additional thirty (30) days to respond to the Counterclaims, and expressing a desire to engage legal counsel.
17. The VFC Parties filed a statement of No Opposition to this motion.
18. The VFC Parties encourage Mr. Abouelkhier to engage legal counsel, and to respond accordingly to the Counterclaims.
19. Mr. Abouelkhier has had ample time to respond to the Counterclaims and to seek legal counsel, and the VFC Parties desire to provide additional time for him to respond, to wit an additional ten (10) days from the Court's ruling on the VFC Parties' cross-motion.
20. To date, the VFC Parties have not requested an entry of default against Mr. Abouelkhier on their Counterclaims.
21. Mr. Abouelkhier references bad faith in filing the Counterclaims and/or a frustration of process on Mr. Abouelkhier's claims.
22. To date, Mr. Abouelkhier has not served a Motion to Amend his Pleadings.
23. It is unclear what Mr. Abouelkhier is referring to regarding alleged attempt to prevent him from amending his pleadings.

WHEREFORE, the VFC Parties request this Court deny Mr. Abouelkhier's Motion to Strike Counterclaims, allow the Counterclaims to remain, and for Mr. Abouelkhier to responsively plead to said Counterclaims within ten (10) days of the allowance of this cross-motion.

Defendants / Plaintiffs-in-Counterclaim,
VIRTUAL FULFILLMENT CENTER, LLC,
MOHAMED KASSEM,
OMAR NEAMATALLA,
MOHAMMED ALI, and
AHMED KASEM

By counsel,

/s/ Alexander W. Levine

Alexander W. Levine, BBO# 688231

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Dated: April 10, 2025

CERTIFICATE OF SERVICE

I, Alexander W. Levine, hereby certify that on April 10, 2025, I caused the foregoing to be served upon Mr. Abouelkhier via e-mail.

/s/ Alexander W. Levine

Alexander W. Levine