

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

JEFFREY SAMPSON and WARWICK  
SMITH,

Plaintiffs,

Judge Daniel P. O'Brien

vs.

No. 12-130610-CZ

TARTAN TEN CLASS ASSOCIATION,  
JOHN E. BARKER, HANSON BRATTON,  
MIKE ECKSTEIN, STEVE GREGORY, SCOTT  
IRWIN, LOU JACOB, STEVE KARSTRAND,  
TED MAHONEY, LARRY PETERSON, DAVID  
TRITSCH and JIM WARD,

Defendants.

---

JAMES W. ROSE (P66473)  
JAFFE, RAITT, HEUER & WEISS, P.C.  
Attorneys for Plaintiffs  
27777 Franklin Road, Ste. 2500  
Southfield, MI 48034  
(248) 351-3000  
[jrose@jaffelaw.com](mailto:jrose@jaffelaw.com)

TIMOTHY J. MULLINS (P28021)  
GIARMARCO, MULLINS & HORTON, P.C.  
Attorney for Defendants, Tartan 10, Barker,  
Bratton, Eckstein, Gregory, Irwin, Jacob,  
Karstrand, Mahoney, Tritsch and Ward  
101 W. Big Beaver Road, 10<sup>th</sup> Floor  
Troy, MI 48084-5280  
(248) 457-7020  
[tmullins@gmhlaw.com](mailto:tmullins@gmhlaw.com)

**ANSWER TO COMPLAINT**

NOW COME Defendants, TARTAN TEN CLASS ASSOCIATION, JOHN E. BARKER, HANSON BRATTON, MIKE ECKSTEIN, STEVE GREGORY, SCOTT IRWIN, LOU JACOB, STEVE KARSTRAND, TED MAHONEY, DAVID TRITSCH and JIM WARD, by and through their attorneys, GIARMARCO, MULLINS & HORTON, P.C., and for their Answer to Plaintiffs' Complaint states as follows:

**Parties and Jurisdictional Allegations**

1. In answer to paragraph 1, Defendants neither admit nor deny the

allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

2. In answer to paragraph 2, Defendants deny the allegations contained therein for the reason that they are untrue.

3. In answer to paragraph 3, Defendants deny the allegations contained therein for the reason that they are untrue.

4. In answer to paragraph 4, Defendants deny the allegations contained therein for the reason that they are untrue.

5. In answer to paragraph 5 Defendants deny the allegations contained therein for the reason that they are untrue.

6. In answer to paragraph 6, Defendants admit that Mike Eckstein resides in Royal Oak, Michigan, but deny any allegation that he conducted any business with Plaintiffs in Oakland County or otherwise.

7. In answer to paragraph 7, Defendants deny the allegations contained therein for the reason that they are untrue.

8. In answer to paragraph 8, Defendants deny the allegations contained therein for the reason that they are untrue.

9. In answer to paragraph 9, Defendants deny the allegations contained therein for the reason that they are untrue.

10. In answer to paragraph 10, Defendants deny the allegations contained therein for the reason that they are untrue.

11. In answer to paragraph 11, Defendants deny the allegations contained therein for the reason that they are untrue.

12. In answer to paragraph 12, Defendants deny the allegations contained therein for the reason that they are untrue.

13. In answer to paragraph 13, Defendants deny the allegations contained therein for the reason that they are untrue.

14. In answer to paragraph 14, Defendants deny the allegations contained therein for the reason that they are untrue.

15. In answer to paragraph 15, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

16. In answer to paragraph 16, Defendants deny the allegations contained therein for the reason that they are untrue.

17. In answer to paragraph 17, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

18. In answer to paragraph 18, Defendants deny the allegations contained therein for the reason that they are untrue.

19. In answer to paragraph 19, Defendants deny the allegations contained therein for the reason that they are untrue.

20. In answer to paragraph 20, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

21. In answer to paragraph 21, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and,

therefore, leave Plaintiffs to their proofs.

22. In answer to paragraph 22, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

23. In answer to paragraph 23, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

24. In answer to paragraph 24, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

25. In answer to paragraph 25, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

26. In answer to paragraph 26, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

27. In answer to paragraph 27, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

28. In answer to paragraph 28, Defendants deny the allegations contained therein for the reason that they are untrue.

29. In answer to paragraph 29, Defendants admit the allegations contained therein.

30. In answer to paragraph 30, Defendants deny the allegations contained therein for the reason that they are untrue.

31. In answer to paragraph 31, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

32. In answer to paragraph 32, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

33. In answer to paragraph 33, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

34. In answer to paragraph 34, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

35. In answer to paragraph 35, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

36. In answer to paragraph 36, Defendants deny the allegations contained therein for the reason that they are untrue. Defendants affirmatively aver that class rules provide that any alteration to the hull or alteration to or replacement of the keel, rudder, and spars invalidates the Measurement Certificate until re-measured. A major repair to any of the foregoing or replacement of an item or equipment may also invalidate the Measurement Certificate. Defendants will show and rely upon at the time of trial that

Plaintiffs altered the standard profile of the keel and structural aspects of Hull #217, thereby invalidating the Measurement Certificate previously issued.

37. In answer to paragraph 37, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

38. In answer to paragraph 38, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

39. In answer to paragraph 39, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

40. In answer to paragraph 40, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

41. In answer to paragraph 41, Defendants deny the allegations contained therein for the reason that they are untrue.

42. In answer to paragraph 42, Defendants deny the allegations contained therein for the reason that they are untrue.

43. In answer to paragraph 43, Defendants deny the allegations contained therein for the reason that they are untrue.

44. In answer to paragraph 44, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

45. In answer to paragraph 45, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

46. In answer to paragraph 46 Defendants deny the allegations contained therein for the reason that they are untrue. Defendants affirmatively aver that a number of class members witnessed illegal features of Hull 217 and so advised Plaintiffs herein.

47. In answer to paragraph 47, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

48. In answer to paragraph 48, Defendants admit the allegations contained therein.

49. In answer to paragraph 49, Defendants deny the allegations contained therein for the reason that they are untrue.

50. In answer to paragraph 50, Defendants deny the allegations contained therein for the reason that they are untrue.

51. In answer to paragraph 51, Defendants deny the allegations contained therein for the reason that they are untrue. Defendants affirmatively aver that a number of class members observed and witnessed inappropriate modifications to Plaintiffs' Hull 217 and witnessed Plaintiffs' admissions to such modifications.

52. In answer to paragraph 52, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

53. In answer to paragraph 53, Defendants neither admit nor deny the

allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs. Defendants affirmatively aver that Plaintiff Sampson admitted to the Association Board that he had modified the keel, thereby triggering class rule 2.5.5, which invalidates the certification for Hull 217 until it is re-measured and certified.

54. In answer to paragraph 54, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

55. In answer to paragraph 55, Defendants deny the allegations contained therein for the reason that they are untrue.

56. In answer to paragraph 56, Defendants deny the allegations contained therein for the reason that they are untrue.

57. In answer to paragraph 57, Defendants deny the allegations contained therein for the reason that they are untrue.

58. In answer to paragraph 58, Defendants deny the allegations contained therein for the reason that they are untrue.

59. In answer to paragraph 59, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

60. In answer to paragraph 60, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

61. In answer to paragraph 61, Defendants deny the allegations contained



therein for the reason that they are untrue.

62. In answer to paragraph 62, Defendants deny the allegations contained therein for the reason that they are untrue.

63. In answer to paragraph 63, Defendants deny the allegations contained therein for the reason that they are untrue.

64. In answer to paragraph 64, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs. Defendants affirmatively aver that the Association responded to Plaintiffs by way of notification on May 10, 2012.

65. In answer to paragraph 65, Defendants deny the allegations contained therein for the reason that they are untrue. Defendants affirmatively aver that Defendants Association responded to Plaintiffs' request on May 10, 2012.

66. In answer to paragraph 66, Defendants deny the allegations contained therein for the reason that they are untrue. Defendants affirmatively aver that the Association Board responded to Plaintiffs' request on May 10, 2012.

67. In answer to paragraph 67, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

68. In answer to paragraph 68, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

69. In answer to paragraph 69, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and,

therefore, leave Plaintiffs to their proofs.

70. In answer to paragraph 70, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

71. In answer to paragraph 71, Defendants deny the allegations contained therein for the reason that they are untrue.

72. In answer to paragraph 72, Defendants deny the allegations contained therein for the reason that they are untrue.

73. In answer to paragraph 73, Defendants deny the allegations contained therein for the reason that they are untrue.

74. In answer to paragraph 74, Defendants deny the allegations contained therein for the reason that they are untrue.

75. In answer to paragraph 75, Defendants deny the allegations contained therein for the reason that they are untrue.

76. In answer to paragraph 76, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

**Count I**  
**Breach of Contract**

77. In answer to paragraph 77, Defendants incorporate by reference their responses contained in paragraphs 1 through 76 inclusive, as if fully set forth herein.

78. In answer to paragraph 78, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

79. In answer to paragraph 79, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and, therefore, leave Plaintiffs to their proofs.

80. In answer to paragraph 80, Defendants deny the allegations contained therein for the reason that they are untrue.

81. In answer to paragraph 81, Defendants deny the allegations contained therein for the reason that they are untrue.

82. In answer to paragraph 82, Defendants deny the allegations contained therein for the reason that they are untrue.

WHEREFORE, Defendants, TARTAN TEN CLASS ASSOCIATION, JOHN E. BARKER, HANSON BRATTON, MIKE ECKSTEIN, STEVE GREGORY, SCOTT IRWIN, LOU JACOB, STEVE KARSTRAND, TED MAHONEY, DAVID TRITSCH and JIM WARD, respectfully request that this Honorable Court enter an order of no cause of action as to Defendants, together with costs and attorney fees so wrongfully sustained, and award sanctions.

**Count II**  
**Declaratory Judgment**

83. In answer to paragraph 83, Defendants incorporate by reference their responses contained in paragraphs 1 through 82 inclusive, as if fully set forth herein.

84. In answer to paragraph 84, Defendants deny the allegations contained therein for the reason that they are untrue.

85. In answer to paragraph 85, Defendants deny the allegations contained therein for the reason that they are untrue. Defendants affirmatively aver that this Court lacks jurisdiction of the individuals and subject matter herein.

86. In answer to paragraph 86, Defendants deny the allegations contained therein for the reason that they are untrue.

87. In answer to paragraph 87, Defendants deny the allegations contained therein for the reason that they are untrue.

88. In answer to paragraph 88, Defendants deny the allegations contained therein for the reason that they are untrue.

WHEREFORE, Defendants, TARTAN TEN CLASS ASSOCIATION, JOHN E. BARKER, HANSON BRATTON, MIKE ECKSTEIN, STEVE GREGORY, SCOTT IRWIN, LOU JACOB, STEVE KARSTRAND, TED MAHONEY, DAVID TRITSCH and JIM WARD, respectfully request that this Honorable Court enter an order of no cause of action as to Defendants, together with costs and attorney fees so wrongfully sustained, and award sanctions.

**Count III**  
**Injunctive Relief**

89. In answer to paragraph 89, Defendants incorporates by reference their responses contained in paragraphs 1 through 88 inclusive, as if fully set forth herein.

90. In answer to paragraph 90, Defendants deny the allegations contained therein for the reason that they are untrue. Defendants affirmatively aver that to their knowledge, no new rules were ever created or imposed in any way upon Plaintiffs or in relationship to any property owned or operated by Plaintiffs. Further, Plaintiffs' own action by improperly modifying Hull 217 resulted in their self-invalidation of the Measurement Certificate and, based upon knowledge and belief, Defendants understand that the Association asked Plaintiffs to remove the invalidating modifications from Hull 217 so that the boat would conform with its original design and construction.

91. In answer to paragraph 91, Defendants deny the allegations contained therein for the reason that they are untrue.

92. In answer to paragraph 92, Defendants deny the allegations contained therein for the reason that they are untrue.

93. In answer to paragraph 93, Defendants deny the allegations contained therein for the reason that they are untrue.

94. In answer to paragraph 94, Defendants deny the allegations contained therein for the reason that they are untrue.

95. In answer to paragraph 95, Defendants deny the allegations contained therein for the reason that they are untrue.

96. In answer to paragraph 96, Defendants deny the allegations contained therein for the reason that they are untrue.

WHEREFORE, Defendants, TARTAN TEN CLASS ASSOCIATION, JOHN E. BARKER, HANSON BRATTON, MIKE ECKSTEIN, STEVE GREGORY, SCOTT IRWIN, LOU JACOB, STEVE KARSTRAND, TED MAHONEY, DAVID TRITSCH and JIM WARD, respectfully request that this Honorable Court enter an order of no cause of action as to Defendants, together with costs and attorney fees so wrongfully sustained, and award sanctions.

**Count IV**  
**Tortious Interference With Contract (All Defendants Except T-Ten Association)**

97. In answer to paragraph 97, Defendants incorporate by reference their responses contained in paragraphs 1 through 96 inclusive, as if fully set forth herein.

98. In answer to paragraph 98, Defendants neither admit nor deny the allegations contained therein for lack of knowledge upon which to form a belief and,

therefore, leave Plaintiffs to their proofs.

99. In answer to paragraph 99, Defendants deny the allegations contained therein for the reason that they are untrue.

100. In answer to paragraph 100, Defendants deny the allegations contained therein for the reason that they are untrue.

101. In answer to paragraph 101, Defendants deny the allegations contained therein for the reason that they are untrue.

WHEREFORE, Defendants, TARTAN TEN CLASS ASSOCIATION, JOHN E. BARKER, HANSON BRATTON, MIKE ECKSTEIN, STEVE GREGORY, SCOTT IRWIN, LOU JACOB, STEVE KARSTRAND, TED MAHONEY, DAVID TRITSCH and JIM WARD, respectfully request that this Honorable Court enter an order of no cause of action as to Defendants, together with costs and attorney fees so wrongfully sustained, and award sanctions.

**Count V**  
**Intentional Infliction of Emotional Distress**

102. In answer to paragraph 102, Defendants incorporate by reference their responses contained in paragraphs 1 through 101 inclusive, as if fully set forth herein.

103. In answer to paragraph 103, Defendants deny the allegations contained therein for the reason that they are untrue.

104. In answer to paragraph 104, Defendants deny the allegations contained therein for the reason that they are untrue.

105. In answer to paragraph 105, Defendants deny the allegations contained therein for the reason that they are untrue.

106. In answer to paragraph 106, Defendants deny the allegations contained

therein for the reason that they are untrue.

107. In answer to paragraph 107, Defendants deny the allegations contained therein for the reason that they are untrue.

WHEREFORE, Defendants, TARTAN TEN CLASS ASSOCIATION, JOHN E. BARKER, HANSON BRATTON, MIKE ECKSTEIN, STEVE GREGORY, SCOTT IRWIN, LOU JACOB, STEVE KARSTRAND, TED MAHONEY, DAVID TRITSCH and JIM WARD, respectfully request that this Honorable Court enter an order of no cause of action as to Defendants, together with costs and attorney fees so wrongfully sustained, and award sanctions.

**Count VI**  
**Statutory Claims (MCL 450.2304 and 450.2825; 805 ILCS 105/112.50)**

108. In answer to paragraph 108, Defendants incorporate by reference their responses contained in paragraphs 1 through 107 inclusive, as if fully set forth herein. untrue.

109. In answer to paragraph 109, Defendants deny the allegations contained therein for the reason that they are untrue.

110. In answer to paragraph 110, Defendants deny the allegations contained therein for the reason that they are untrue.

111. In answer to paragraph 111, Defendants deny the allegations contained therein for the reason that they are untrue.

WHEREFORE, Defendants, TARTAN TEN CLASS ASSOCIATION, JOHN E. BARKER, HANSON BRATTON, MIKE ECKSTEIN, STEVE GREGORY, SCOTT IRWIN, LOU JACOB, STEVE KARSTRAND, TED MAHONEY, DAVID TRITSCH and JIM WARD, respectfully request that this Honorable Court enter an order of no cause of

action as to Defendants, together with costs and attorney fees so wrongfully sustained, and award sanctions.

/s/TIMOTHY J. MULLINS

GIARMARCO, MULLINS & HORTON, PC  
Attorney for Defendants, Tartan 10, Barker,  
Bratton, Eckstein, Gregory, Irwin, Jacob,  
Karstrand, Mahoney, Tritsch and Ward  
101 W. Big Beaver Road, 10th Floor  
Troy, MI 48084-5280  
(248) 457-7020  
[tmullins@gmhlaw.com](mailto:tmullins@gmhlaw.com)  
P28021

DATED: January 29, 2013



STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

JEFFREY SAMPSON and WARWICK  
SMITH,

Plaintiffs,

Judge Daniel P. O'Brien

vs.

No. 12-130610-CZ

TARTAN TEN CLASS ASSOCIATION,  
JOHN E. BARKER, HANSON BRATTON,  
MIKE ECKSTEIN, STEVE GREGORY, SCOTT  
IRWIN, LOU JACOB, STEVE KARSTRAND,  
TED MAHONEY, LARRY PETERSON, DAVID  
TRITSCH and JIM WARD,

Defendants.

---

JAMES W. ROSE (P66473)  
JAFFE, RAITT, HEUER & WEISS, P.C.  
Attorneys for Plaintiffs  
27777 Franklin Road, Ste. 2500  
Southfield, MI 48034  
(248) 351-3000  
[jrose@jaffelaw.com](mailto:jrose@jaffelaw.com)

TIMOTHY J. MULLINS (P28021)  
GIARMARCO, MULLINS & HORTON, P.C.  
Attorney for Defendants, Tartan 10, Barker,  
Bratton, Eckstein, Gregory, Irwin, Jacob,  
Karstrand, Mahoney, Tritsch and Ward  
101 W. Big Beaver Road, 10<sup>th</sup> Floor  
Troy, MI 48084-5280  
(248) 457-7020  
[tmullins@gmhlaw.com](mailto:tmullins@gmhlaw.com)

**AFFIRMATIVE DEFENSES**

NOW COME Defendants, TARTAN TEN CLASS ASSOCIATION, JOHN E. BARKER, HANSON BRATTON, MIKE ECKSTEIN, STEVE GREGORY, SCOTT IRWIN, LOU JACOB, STEVE KARSTRAND, TED MAHONEY, DAVID TRITSCH and JIM WARD, by and through their attorneys, GIARMARCO, MULLINS & HORTON, P.C., and for their Affirmative Defenses state as follows:

1. Defendants will show and rely upon that Plaintiffs and all Defendants herein were participants in sailboat racing activities conducted as an amateur sporting

activity and that Plaintiffs and all Defendants mutually agreed as a condition precedent to the participation in such activities that they would be governed by and abide by the rules, rulings and determinations of the organizing bodies, including the one named herein, local sailing organizations, state sailing organizations, national sailing organizations and such international sailing organizations as will be shown in the course of the proceedings herein.

2. Defendants will further show that Plaintiffs and all parties herein agreed to abide by the aforesaid rulings and determinations and to forego seeking any further redress in local, state or federal court. As such, Defendants will show that, by operation of consent, contract, prior mutual agreement, condition precedent, and by operation of law, as made and provided by local, state and federal statute, this Court lacks jurisdiction in the matter presented.

3. Defendants will show and rely upon that with Plaintiffs knowing that prior to the institution of the subject litigation, Plaintiffs had agreed to abide by the aforesaid determinations of the appropriate ruling bodies and that the Court herein had no jurisdiction over the matter asserted, that the filing herein is frivolous and that the Court should award interest, costs, attorney fees and sanctions to Defendants for having been subjected to the improper filing of this claim.

4. Plaintiffs' lawsuit constitutes an abuse of process and will serve to bar Plaintiffs' claims.

5. Plaintiffs' lawsuit may be barred by an arbitration agreement.

6. Plaintiffs' claims are barred by the business judgment rule.

7. Plaintiffs' claims are barred because they have failed to exhaust their administrative remedies.
8. Plaintiffs' claims are barred because they have consented to the harms complained about.
9. This Court lacks subject matter jurisdiction over some of Plaintiffs' claims.
10. Plaintiffs' claims are barred because they have failed to satisfy conditions precedent.
11. Plaintiffs' claims are barred because Defendants acted in good faith.
12. Plaintiffs' claims are barred by laches.
13. Plaintiffs' claims are barred by the statute of limitations.
14. Plaintiffs lack standing to raise claims made.
15. Plaintiffs' claims may be barred by the parol evidence rule.
16. If Plaintiffs establish a contract, Plaintiffs' claims are barred by their prior and material breach.
17. Plaintiffs' claims are barred by their unclean hands.
18. Plaintiffs' claims are barred by their own comparative fault.
19. Plaintiffs' damages, if any, were caused by their own actions or actions of third parties.
20. Plaintiffs' claims are barred by failure of consideration.
21. Plaintiffs' claims are barred because there was no meeting of the minds.
22. Plaintiffs have failed to mitigate their damages, if any.
23. This action was filed in an improper venue.
24. Plaintiffs' claims are barred by the doctrine of impossibility of performance.

25. Plaintiffs' claim for injunctive relief is barred because they have not demonstrated that money damages are inadequate.

26. Plaintiffs' claim for injunctive relief is barred because they cannot demonstrate irreparable harm.

27. Plaintiffs' claim for injunctive relief is barred because they cannot succeed on the merits.

28. Plaintiffs' claim for injunctive relief is barred because an injunction would be against the public interest.

29. Plaintiffs' IIED claim is barred because they have not pled conduct that is "extreme and outrageous."

30. Plaintiffs' IIED claim is barred because they have not suffered severe emotional distress.

31. Plaintiffs have failed to join all necessary or interested parties.

32. Plaintiffs' tortious interference claim is barred because a party cannot tortiously interfere with their own contract or business relationship/expectancy.

33. Plaintiffs' claims may be preempted by state or federal law.

34. Defendants reserve the right to amend their Answer, including additional Affirmative Defenses, upon completion of investigation and discovery of this cause.

/s/TIMOTHY J. MULLINS  
GIARMARCO, MULLINS & HORTON, PC  
Attorney for Defendants, Tartan 10, Barker,  
Bratton, Eckstein, Gregory, Irwin, Jacob,  
Karstrand, Mahoney, Tritsch and Ward

DATED: January 29, 2013

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

JEFFREY SAMPSON and WARWICK  
SMITH,

Plaintiffs,

Judge Daniel P. O'Brien

vs.

No. 12-130610-CZ

TARTAN TEN CLASS ASSOCIATION,  
JOHN E. BARKER, HANSON BRATTON,  
MIKE ECKSTEIN, STEVE GREGORY, SCOTT  
IRWIN, LOU JACOB, STEVE KARSTRAND,  
TED MAHONEY, LARRY PETERSON, DAVID  
TRITSCH and JIM WARD,

Defendants.

---

**JURY DEMAND**

NOW COME Defendants, TARTAN TEN CLASS ASSOCIATION, JOHN E. BARKER, HANSON BRATTON, MIKE ECKSTEIN, STEVE GREGORY, SCOTT IRWIN, LOU JACOB, STEVE KARSTRAND, TED MAHONEY, DAVID TRITSCH and JIM WARD, by and through their attorneys, GIARMARCO, MULLINS & HORTON, P.C., and hereby demand a jury as to all issues of trial.

/s/TIMOTHY J. MULLINS

GIARMARCO, MULLINS & HORTON, PC  
Attorney for Defendants, Tartan 10, Barker,  
Bratton, Eckstein, Gregory, Irwin, Jacob,  
Karstrand, Mahoney, Tritsch and Ward  
101 W. Big Beaver Road, 10th Floor  
Troy, MI 48084-5280  
(248) 457-7020  
[tmullins@gmhlaw.com](mailto:tmullins@gmhlaw.com)  
P28021

DATED: January 29, 2013

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

JEFFREY SAMPSON and WARWICK  
SMITH,

Plaintiffs,

Judge Daniel P. O'Brien

vs.

No. 12-130610-CZ

TARTAN TEN CLASS ASSOCIATION,  
JOHN E. BARKER, HANSON BRATTON,  
MIKE ECKSTEIN, STEVE GREGORY, SCOTT  
IRWIN, LOU JACOB, STEVE KARSTRAND,  
TED MAHONEY, LARRY PETERSON, DAVID  
TRITSCH and JIM WARD,

Defendants.

\_\_\_\_\_ /

**CERTIFICATE OF ELECTRONIC SERVICE**

TIMOTHY J. MULLINS states that on January 29, 2013, he did serve a copy of the ANSWER, AFFIRMATIVE DEFENSES and JURY DEMAND via the Oakland County Circuit Court Wiznet electronic transmission on the aforementioned date.

/s/TIMOTHY J. MULLINS

GIARMARCO, MULLINS & HORTON, PC  
Attorney for Defendants, Tartan 10, Barker,  
Bratton, Eckstein, Gregory, Irwin, Jacob,  
Karstrand, Mahoney, Tritsch and Ward  
101 W. Big Beaver Road, 10th Floor  
Troy, MI 48084-5280  
(248) 457-7020  
[tmullins@gmhlaw.com](mailto:tmullins@gmhlaw.com)  
P28021