

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: AMERICAN MEDICAL SYSTEMS
PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION

MDL NO. 2325
Honorable Joseph R. Goodwin

**AMERICAN MEDICAL SYSTEM, INC.'S ANSWER AND AFFIRMATIVE DEFENSES
TO PLAINTIFFS' FIRST AMENDED MASTER LONG FORM COMPLAINT AND
JURY DEMAND**

Defendant American Medical Systems, Inc. (hereinafter "AMS"), by and through undersigned counsel, hereby files its Master Answer and Affirmative Defenses ("Master Responsive Pleading") to Plaintiffs' First Amended Master Long Form Complaint and Jury Demand ("Amended Master Complaint"). By operation of the Order of this Court, all responses and defenses pled herein are deemed pled in any previously filed Answer and in any Entry of Appearance hereafter filed. AMS expressly reserves any and all defenses now available or that may become available in the future. In further response to the numbered allegations contained in the Amended Master Complaint, AMS states as follows:

PARTIES, JURISDICTION & VENUE

PLAINTIFFS

1.

Denied. AMS is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and they are therefore denied.

DEFENDANTS

2.

Admitted in part; denied in part. It is admitted that AMS is a Delaware corporation and is a wholly owned subsidiary of defendant American Medical Systems Holdings, Inc. ("AMS Holdings"), which is a wholly owned subsidiary of Endo Pharmaceuticals Inc. ("Endo"), which is a wholly owned subsidiary of Endo Health Solutions Inc. ("Endo Health Solutions"). The

remaining allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are based on a writing that speaks for itself and any attempt to characterize it is denied.

3.

Admitted in part; denied in part. It is admitted that AMS Holdings is a Delaware corporation. The remaining allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are based on a writing that speaks for itself and any attempt to characterize it is denied. By way of further response, AMS Holdings is not a proper party in this action.

4.

Admitted in part; denied in part. It is admitted that Endo has its principal place of business at 100 Endo Boulevard, Chadds Ford, Pennsylvania 19137. It is denied that Endo is a Pennsylvania corporation. By way of further response, Endo is a Delaware corporation and not a proper party in this action.

5.

Admitted in part; denied in part. It is admitted that Endo Pharmaceutical Holdings Inc. (“Endo Holdings”) is a Delaware corporation with its principal place of business at 100 Endo Boulevard, Chadds Ford, Pennsylvania 19137 and Endo is a wholly owned subsidiary of Endo Holdings. It is also admitted that Endo Holdings changed its name to Endo Health Solutions on May 23, 2012. It is specifically denied that Endo Health Solutions, f/k/a Endo Holdings, is a proper party in this action.

6.

Admitted in part; denied in part. It is admitted that Endo Health Solutions is a Delaware corporation with its principal place of business at 100 Endo Boulevard, Chadds Ford, Pennsylvania 19137 and that AMS and AMS Holdings are indirectly wholly owned subsidiaries of Endo Health Solutions. It is specifically denied that Endo Health Solutions, f/k/a Endo Holdings, is a proper party in this action.

7.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

8.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

9.

Admitted in part; denied in part. AMS admits that it has designed, patented, manufactured, labeled, marketed, and sold and distributed a line of pelvic mesh products. The remaining allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, the allegations in this paragraph are based on a writing that speaks for itself and any attempt to characterize it is denied.

10.

Denied. This paragraph does not contain any factual allegations and therefore no response is required.

VENUE

11.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

12.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

13.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

FACTUAL BACKGROUND

14.

Denied. AMS denies the allegations in this paragraph. By way of further response, some of AMS' products utilize monofilament polypropylene mesh and some are also available with a biologic graft.

15.

Admitted in part; denied in part. AMS admits that it sought and obtained clearance for some pelvic mesh products under Section 510 (k) of the Medical Device Amendments to the Federal Food, Drug and Cosmetics Act. The federal statute is a writing and speaks for itself, and any attempt to characterize it is denied. The remaining allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the

allegations are denied. To the extent the remaining allegations are deemed factual, they are denied.

16.

Denied. The allegations in this paragraph pertain to a writing and a database that speak for themselves and any attempt to characterize them is denied. By way of further response, AMS is without information sufficient to form a belief as to the truth of the allegations concerning the purported review conducted of the MAUDE database and therefore those allegations are denied.

17.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied.

18.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied.

19.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied.

20.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied.

21.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied.

22.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied.

23.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied.

24.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied.

25.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied.

26.

Denied as stated. By way of further response, AMS' products have been cleared by the FDA and have been made available to physicians with appropriate information about their safety and efficacy.

27.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

28.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied.

29.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied.

30.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied. AMS is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and they are therefore denied.

31.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

32.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

33.

Denied. AMS denies the allegations in this paragraph.

34.

Denied. AMS denies the allegations in this paragraph.

35.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied. The allegations set forth in this paragraph also contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

36.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

37.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

38.

Denied as stated. By way of further response, the products have been cleared by the FDA and have been made available to physicians with appropriate information about their safety and efficacy.

39.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

40.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

41.

Denied. The allegations set forth in this paragraph, and all subparts thereto, contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

42.

Denied. The allegations set forth in this paragraph, and all subparts thereto, contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

43.

Denied. AMS denies the allegations in this paragraph.

44.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

45.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

46.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

47.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

48.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

49.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, AMS is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and they are therefore denied.

50.

Denied. AMS is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and they are therefore denied.

51.

Denied. AMS is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and they are therefore denied.

52.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, AMS is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and they are therefore denied.

53.

Denied as stated.

54.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

55.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

56.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

57.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

58.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

CAUSES OF ACTION
COUNT I: NEGLIGENCE

59.

AMS hereby incorporates by reference its responses to Paragraphs 1-58 of the Amended Master Complaint as if fully set forth herein.

60.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

61.

Denied. The allegations set forth in this paragraph, and all subparts thereto, contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

62.

Denied. The allegations set forth in this paragraph, and all subparts thereto, contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

63.

Denied. The allegations set forth in this paragraph, and all subparts thereto, contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

64.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT II: STRICT LIABILITY – DESIGN DEFECT

65.

AMS hereby incorporates by reference its responses to Paragraphs 1-64 of the Amended Master Complaint as if fully set forth herein.

66.

Denied. The allegations set forth in this paragraph, and all subparts thereto, contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

67.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

68.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT III: STRICT LIABILITY – MANUFACTURING DEFECT

69.

AMS hereby incorporates by reference its responses to Paragraphs 1-68 of the Amended Master Complaint as if fully set forth herein.

70.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

71.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

72.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT IV: STRICT LIABILITY – FAILURE TO WARN

73.

AMS hereby incorporates by reference its responses to Paragraphs 1-72 of the Amended Master Complaint as if fully set forth herein.

74.

Denied. The allegations set forth in this paragraph, and all subparts thereto, contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

75.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

76.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT V: STRICT LIABILITY – DEFECTIVE PRODUCT

77.

AMS hereby incorporates by reference its responses to Paragraphs 1-76 of the Amended Master Complaint as if fully set forth herein.

78.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

79.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

80.

Admitted in part; denied in part. It is admitted that Plaintiffs are attempting to bring claims as stated. It is specifically denied that Plaintiffs have any valid claims or right to recovery.

81.

Admitted in part; denied in part. It is admitted that Plaintiffs are attempting to bring claims as stated. It is specifically denied that Plaintiffs have any valid claims or right to recovery.

82.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT VI: BREACH OF EXPRESS WARRANTY

83.

AMS hereby incorporates by reference its responses to Paragraphs 1-82 of the Amended Master Complaint as if fully set forth herein.

84.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

85.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

86.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

87.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

88.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

89.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT VII: BREACH OF IMPLIED WARRANTY

90.

AMS hereby incorporates by reference its responses to Paragraphs 1-89 of the Amended Master Complaint as if fully set forth herein.

91.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

92.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

93.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

94.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

95.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

96.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT VIII: FRAUDULENT CONCEALMENT

97.

AMS hereby incorporates by reference its responses to Paragraphs 1-96 of the Amended Master Complaint as if fully set forth herein.

98.

Denied. The allegations in this paragraph pertain to a writing and a database that speak for themselves and any attempt to characterize them is denied. By way of further response, AMS is without information sufficient to form a belief as to the truth of the allegations concerning the purported review conducted of the MAUDE database and therefore those allegations are denied.

99.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied.

100.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

101.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

102.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

103.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

104.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

105.

Denied. The allegations set forth in this paragraph, and all subparts thereto, contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

106.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

107.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

108.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

109.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

110.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT IX: CONSTRUCTIVE FRAUD

111.

AMS hereby incorporates by reference its responses to Paragraphs 1-110 of the Amended Master Complaint as if fully set forth herein.

112.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

113.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

114.

Denied. The allegations in this paragraph pertain to a writing that speaks for itself and any attempt to characterize it is denied.

115.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

116.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

117.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

118.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT X: DISCOVERY RULE, TOLLING, AND FRAUDULENT CONCEALMENT

119.

AMS hereby incorporates by reference its responses to Paragraphs 1-118 of the Amended Master Complaint as if fully set forth herein.

120.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

121.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

122.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

123.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT XI: NEGLIGENT MISREPRESENTATION

124.

AMS hereby incorporates by reference its responses to Paragraphs 1-123 of the Amended Master Complaint as if fully set forth herein.

125.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

126.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

127.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

128.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

129.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT XII: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

130.

AMS hereby incorporates by reference its responses to Paragraphs 1-129 of the Amended Master Complaint as if fully set forth herein.

131.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

132.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

133.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT XIII: VIOLATION OF CONSUMER PROTECTION LAWS

134.

AMS hereby incorporates by reference its responses to Paragraphs 1-133 of the Amended Master Complaint as if fully set forth herein.

135.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

136.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

137.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

138.

Denied. The allegations set forth in this paragraph, and all subparts thereto, contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

139.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

140.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

141.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

142.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

143.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

144.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

145.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

146.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

147.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

148.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

149.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

150.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

151.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

152.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT XIV: GROSS NEGLIGENCE

153.

AMS hereby incorporates by reference its responses to Paragraphs 1-152 of the Amended Master Complaint as if fully set forth herein.

154.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

155.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

156.

The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

157.

The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT XV: UNJUST ENRICHMENT

158.

AMS hereby incorporates by reference its responses to Paragraphs 1-157 of the Amended Master Complaint as if fully set forth herein.

159.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

160.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

161.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

162.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT XVI: LOSS OF CONSORTIUM

163.

AMS hereby incorporates by reference its responses to Paragraphs 1-162 of the Amended Master Complaint as if fully set forth herein.

164.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

COUNT XVII: PUNITIVE DAMAGES

165.

AMS hereby incorporates by reference its responses to Paragraphs 1-164 of the Amended Master Complaint as if fully set forth herein.

166.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

167.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

168.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

169.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

170.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

171.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

172.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

173.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

174.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

175.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

176.

Denied. The allegations set forth in this paragraph contain conclusions of law to which no responsive pleading is required and therefore the allegations are denied. To the extent the allegations are deemed factual, they are denied.

PLAINTIFFS' PRAYER FOR RELIEF

These paragraphs set forth the statement of relief requested by Plaintiffs to which no response is required. To the extent a response is deemed necessary, AMS denies that Plaintiff is entitled to any of the requested relief and denies any of the allegations in the Prayer for Relief to which a response is required. AMS denies each and every allegation of the Amended Master Complaint not specifically admitted or otherwise responded to above. AMS specifically denies that Plaintiffs are entitled to any relief whatsoever of any kind against AMS as a result of any act or omission of AMS or any person or entity acting on behalf of AMS.

AFFIRMATIVE DEFENSES

AMS alleges and asserts the following defenses in response to the allegations in the Amended Master Complaint.

FIRST DEFENSE

The Amended Master Complaint fails to state a claim or claims upon which relief can be granted.

SECOND DEFENSE

The Amended Master Complaint fails to state a claim or claims upon which relief can be granted due to lack of adequate product identification.

THIRD DEFENSE

The Plaintiffs may be barred from bringing some of the claims alleged in the Amended Master Complaint because the Plaintiffs may lack standing and/or capacity to bring such claims.

FOURTH DEFENSE

This Court lacks personal jurisdiction over AMS such that AMS should be dismissed. AMS specifically raises this defense, makes it objections to the exercise of personal jurisdiction over AMS in this Court, and preserves its rights to seek dismissal by way of subsequent motion.

FIFTH DEFENSE

The sole proximate cause of the Plaintiffs' damages, if any were sustained, was the negligence of a person or persons or entity for whose acts or omissions AMS was and is in no way liable.

SIXTH DEFENSE

If the Plaintiffs have been damaged, which AMS denies, any recovery by the Plaintiffs is barred to the extent they voluntarily exposed themselves to a known risk and/or failed to mitigate their alleged damages. To the extent the Plaintiffs have failed to mitigate their alleged damages, any recovery shall not include alleged damages that could have been avoided by reasonable care and diligence.

SEVENTH DEFENSE

If the Plaintiffs have been damaged, which AMS denies, such damages were only sustained after Plaintiffs knowingly and voluntarily assumed the risk of such injury, loss, and damages as the result of the implantation of the pelvic mesh products designed to treat pelvic disorders as prescribed by the Plaintiffs' physicians. Accordingly, Plaintiffs' claims are barred, in whole or in part, by principles of assumption of the risk and informed consent.

EIGHTH DEFENSE

The Plaintiffs failed to exercise ordinary care for their own safety such that the Plaintiffs are not entitled to recover.

NINTH DEFENSE

The injuries and damages allegedly sustained by the Plaintiffs may be due to the operation of nature or idiosyncratic reaction(s) and/or pre-existing condition(s) in the Plaintiffs over which AMS had no control.

TENTH DEFENSE

Some or all of Plaintiffs' claims are barred because any damage, loss, or injury allegedly resulting from the implantation of any products were proximately caused by substantial or material alteration or modification of the Product after the Product left the control of AMS.

ELEVENTH DEFENSE

Any AMS component involved in this action was fitted to and implanted into the Plaintiff's body by a licensed physician after it left control of AMS, and to the extent supported by the facts of the case, some or all of Plaintiff's claims are barred by changes to the condition of the product after it left control of AMS.

TWELFTH DEFENSE

The Plaintiffs' causes of action may be barred by the applicable statute of limitations and/or statute of repose.

THIRTEENTH DEFENSE

The Plaintiffs' claims are barred, in whole or in part, by the doctrines of laches, waiver, estoppel and/or regulatory compliance.

FOURTEENTH DEFENSE

There was no defect in the products at issue with the result that the Plaintiffs are not entitled to recover against AMS.

FIFTEENTH DEFENSE

There was no causal connection between any alleged defect in the products at issue and Plaintiffs' alleged damages with the result that Plaintiffs are not entitled to recover against AMS.

SIXTEENTH DEFENSE

If the Plaintiffs have been damaged, which AMS denies, such damages were caused by the negligence or fault of the Plaintiffs.

SEVENTEENTH DEFENSE

If the Plaintiffs have been damaged, which AMS denies, such damages were caused by the negligence or fault of persons and/or entities for whose conduct AMS is not legally responsible.

EIGHTEENTH DEFENSE

If the Plaintiffs suffered any damages or injuries, which are denied, the Plaintiffs' recovery is barred, in whole or in part, or subject to reduction under the doctrine of contributory and/or comparative negligence.

NINETEENTH DEFENSE

In the alternative, and only in the event that it is determined that the Plaintiffs are entitled to recover against AMS, recovery should be reduced in proportion to the degree or percentage of negligence, fault or exposure to products attributable to the Plaintiff, any other defendants, third party defendants, or other persons, including any party immune because bankruptcy renders them immune from further litigation, as well as any party, co-defendant, or non-parties with whom the Plaintiffs have settled or may settle in the future.

TWENTIETH DEFENSE

If the Plaintiffs have been damaged, which AMS denies, the negligence or fault of the Plaintiff constitutes the sole, intervening, and superseding cause of the Plaintiffs' alleged damages.

TWENTY-FIRST DEFENSE

If the Plaintiffs have been damaged, which AMS denies, the negligence or fault of persons and/or entities for whose conduct AMS is not legally responsible constitutes the sole, intervening, and superseding cause of the Plaintiffs' alleged damages.

TWENTY-SECOND DEFENSE

If the Plaintiffs have been damaged, which AMS denies, the actions of persons or entities for whose conduct AMS is not legally responsible and the independent knowledge of these persons or entities of the risks inherent in the use of the products and other independent causes, constitute an intervening and superseding cause of the Plaintiffs' alleged damages.

TWENTY-THIRD DEFENSE

If the Plaintiffs have been damaged, which AMS denies, such damages were caused by unforeseeable, independent, intervening, and/or superseding events for which AMS is not legally responsible.

TWENTY-FOURTH DEFENSE

If the Plaintiffs have been damaged, which AMS denies, such damages were caused by abuse, misuse, user error and/or modification of the products at issue for which AMS was and is in no way liable.

TWENTY-FIFTH DEFENSE

AMS made no warranties of any kind, express or implied, including any alleged implied warranty of merchantability or implied warranty of fitness for a particular purpose, or any representations of any nature whatsoever to the Plaintiffs. To the extent applicable, the Plaintiffs' breach of warranty claims are barred by a lack of privity between the Plaintiffs and AMS. To the extent the Plaintiffs made warranty claims, whether express or implied, the claims are barred or limited by any and all express conditions or disclaimers, by the Plaintiffs' lack of reliance on any such warranties, and by waiver.

TWENTY-SIXTH DEFENSE

To the extent the Plaintiffs assert a claim for breach of implied warranty, such claim must fail because the products were not used for their ordinary purpose.

TWENTY-SEVENTH DEFENSE

To the extent the Plaintiffs assert a claim for breach of warranty, such claim is barred because the Plaintiffs did not first give notice of any alleged defect of the products to AMS.

TWENTY-EIGHTH DEFENSE

AMS neither had nor breached any alleged duty to warn with respect to the products, with the result that the Plaintiffs are not entitled to recover in this cause.

TWENTY-NINTH DEFENSE

The Plaintiffs' claims are barred by the learned intermediary doctrine.

THIRTIETH DEFENSE

The conduct of AMS and the subject products at all times conformed with the Federal Food, Drug and Cosmetic Act, and other pertinent federal statute and regulations. Accordingly, the Plaintiffs' claims are barred, in whole or in part, under the doctrine of federal preemption, and granting the relief requested would impermissibly infringe upon and conflict with federal laws, regulations, and policies in violation of the Supremacy Clause of the United States Constitution.

THIRTY-FIRST DEFENSE

Plaintiffs may not assert a claim based on alleged fraud on the FDA.

THIRTY-SECOND DEFENSE

If the Plaintiffs recover from AMS, it is entitled to contribution, set-off, and/or indemnification, either in whole or in part, from all persons or entities whose negligence or fault proximately caused or contributed to cause the Plaintiffs' alleged damages.

THIRTY-THIRD DEFENSE

The Plaintiffs' claims are or may be barred, in whole or in part, to the extent that the Plaintiff has released, settled with, entered into an accord and satisfaction, or otherwise compromised their claims. AMS is entitled to a set-off for the entire amount of proceeds the Plaintiffs have or may recover from all other sources.

THIRTY-FOUR DEFENSE

Should AMS be held liable to the Plaintiffs, which liability is specifically denied, AMS would be entitled to a set-off for the total of all amounts paid to the Plaintiffs from all collateral sources.

THIRTY-FIVE DEFENSE

Plaintiffs' damages claims are barred by the economic loss doctrine.

THIRTY-SIX DEFENSE

AMS asserts any and all defenses, claims, credits, offsets, or remedies available to it under the Restatement (Third) of Torts and reserves the right to amend its Answer to file such further pleadings as are necessary to preserve and assert such defenses, claims, credits, offsets, or remedies.

THIRTY-SEVENTH DEFENSE

The products at issue are neither defective nor unreasonably dangerous because it is a medical device falling within what is commonly known as Comments (j) and (k), Restatement (Second) of Torts § 402A, and comparable provisions of the Restatement (Third) of Torts (Products Liability), in that the products at issue were, at all times material to the Amended Master Complaint, reasonably safe and reasonably fit for their intended use, and the warnings and instructions accompanying the products at the time of the occurrence or injuries alleged by the Plaintiffs were legally adequate.

THIRTY-EIGHTH DEFENSE

The Plaintiffs' claims are barred because the methods, standards, warnings, and instructions used in manufacturing and/or marketing the products at issue conformed with the generally recognized, reasonably available, and reliable state of knowledge when the products were manufactured and marketed.

THIRTY-NINTH DEFENSE

The Plaintiffs' claims are barred because the methods, standards, warnings, and instructions used in manufacturing and/or marketing the products at issue conformed with industry custom/usage standards and/or legislative/administrative/regulatory standards.

FORTIETH DEFENSE

The design complained of in the Amended Master Complaint, the alleged defects of the products, and/or any alternative design claimed by the Plaintiffs were not known and, in light of the existing, reasonably-available scientific and technological knowledge, could not have been known at the time the products at issue were designed, manufactured, and sold. Any alleged alternative design was not scientifically or technologically feasible or economically practical.

FORTY-FIRST DEFENSE

Plaintiffs' causes of action are barred in whole or in part by their failure to assert a safer design for the Product.

FORTY-SECOND DEFENSE

AMS specifically pleads all affirmative defenses under the Uniform Commercial Code ("UCC") now existing or which may arise in the future, including those defenses provided by UCC § 2-607.

FORTY-THIRD DEFENSE

No act or omission of AMS was malicious, willful, wanton, reckless, or grossly negligent, and, therefore, any award of punitive damages is barred.

FORTY-FOURTH DEFENSE

To the extent the Plaintiffs assert a demand for punitive damages, AMS specifically incorporates by reference any and all standards of limitations regarding the determination and/or enforceability of punitive damages awards that arose in the decisions of *BMW of No. America v. Gore*, 517 U.S. 559 (1996); *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001); *State Farm Mut. Auto Ins. Co. v. Campbell*, 123 S. Ct. 1513 (2003); and *Exxon Shipping Co. v. Baker*, No. 07-219, 2008 U.S. LEXIS 5263 (U.S. June 25, 2008) and their progeny as well as other similar cases under both federal and state law.

FORTY-FIFTH DEFENSE

To the extent that the Plaintiffs assert a claim for punitive damages, that claim is in contravention of the rights of AMS under the following constitutional provisions:

1. Plaintiffs' claims for punitive or exemplary damages violate, and are therefore barred by, the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States of America, and the analogous provisions of the applicable State Constitutions, on grounds including the following:

- (a) it is a violation of the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the United States Constitution, and the analogous provisions of the applicable State Constitutions, to impose punitive damages, which are penal in nature, against a civil defendant upon the Plaintiffs satisfying a burden of proof which is less than the "beyond a reasonable doubt" burden of proof required in criminal cases;
- (b) the procedures pursuant to which punitive damages are awarded may result in the award of joint and several judgments against multiple defendants for different alleged acts of wrongdoing, which infringes upon the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the United States Constitution, and the analogous provisions of the applicable State Constitutions;

- (c) the procedures pursuant to which punitive damages are awarded fail to provide a reasonable limit on the amount of the award against defendant, which thereby violates the Due Process Clause of the Fourteenth Amendment of the United States Constitution, and the analogous provisions of the applicable State Constitutions;
- (d) the procedures pursuant to which punitive damages are awarded fail to provide specific standards for the amount of the award of punitive damages which thereby violates the Due Process Clause of the Fourteenth Amendment of the United States Constitution, and the analogous provisions of the applicable State Constitutions;
- (e) the procedures pursuant to which punitive damages are awarded result in the imposition of different penalties for the same or similar acts, and thus violate the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, and the analogous provisions of the applicable State Constitutions;
- (f) the procedures pursuant to which punitive damages are awarded permit the imposition of punitive damages in excess of the maximum criminal fine for the same or similar conduct, which thereby infringes upon the Due Process Clause of the Fifth and Fourteenth Amendments and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, and the analogous provisions of the applicable State Constitutions;
- (g) the procedures pursuant to which punitive damages are awarded permit the imposition of excessive fines in violation of the Eighth Amendment of the United States Constitution, and the analogous provisions of the applicable State Constitutions;

- (h) the award of punitive damages to the Plaintiffs in this action would constitute a deprivation of property without due process of law; and
- (i) the procedures pursuant to which punitive damages are awarded permit the imposition of an excessive fine and penalty.

FORTY-SIXTH DEFENSE

The Plaintiffs' claims are barred, in whole or in part, because Plaintiffs assumed the risks disclosed by the FDA-approved product labeling, the prescribing physicians, or other persons or entities.

FORTY-SEVENTH DEFENSE

There should be no recovery against AMS for any failure to warn or inadequacy of warning, because at all pertinent times, Plaintiffs possessed or should have possessed good and adequate knowledge which negated any need for warning.

FORTY-EIGHTH DEFENSE

If Plaintiffs were injured or damaged as alleged, no injury or damages being admitted, such injuries were not caused by a product manufactured by AMS.

FORTY-NINTH DEFENSE

The Plaintiffs' claims are barred, in whole or in part, because AMS at all relevant times, complied with all applicable laws and regulations.

FIFTIETH DEFENSE

The Plaintiffs' product liability claims are barred because the benefits of the products outweighed their risks.

FIFTY-FIRST DEFENSE

Venue may be improper in any individual case where the Plaintiff does not reside in the forum wherein her Amended Master Complaint was filed or cannot otherwise establish an independent basis for venue in that forum and any such claims should be dismissed on this basis.

FIFTY-SECOND DEFENSE

Plaintiffs' case may be subject to dismissal or transfer under the doctrine of forum non conveniens.

FIFTY-THIRD DEFENSE

AMS is entitled to and claims the benefits of all defenses and presumptions set forth in or arising from any rule of law or statute in this State and any other state whose law is deemed to apply in this case.

FIFTY-FOURTH DEFENSE

The Plaintiffs have failed to plead their fraud claims with the particularity required under the applicable state's statutory and/or common law.

FIFTY-FIFTH DEFENSE

If it should be proven that any product distributed by AMS was involved herein as alleged, then the state of medical and scientific knowledge or published literature or other materials reflecting the state of medical and scientific knowledge at all times relevant hereto, was such that AMS neither knew nor could have known that the products presented a foreseeable risk of harm in its normal and expected use.

FIFTY-SIXTH DEFENSE

AMS used reasonable care to inform the medical community of, inter alia, the indications, contraindications and risks of its medical devices, including Pelvic Mesh Products.

FIFTY-SEVENTH DEFENSE

The damages claimed by Plaintiffs are not recoverable, in whole or in part, under the various applicable states' laws.

FIFTY-EIGHTH DEFENSE

Plaintiffs' claims may be barred by failure to join indispensable parties.

FIFTY-NINTH DEFENSE

AMS intends to rely upon any additional affirmative defenses that become available during the course of investigation and/or discovery and reserves the right to amend its Answer to assert these defenses.

SIXTIETH DEFENSE

AMS hereby gives notice that it intends to rely upon and incorporates by reference any affirmative defenses that may be asserted by any co-defendant in this lawsuit.

JURY DEMAND

AMS hereby requests a trial by jury on all issues so triable, and reserves the right to seek to have a trial before twelve jurors.

WHEREFORE, AMS avers that Plaintiffs are not entitled to the relief demanded in the Amended Master Complaint, and AMS, having fully answered, prays that this action against it be dismissed and that it be awarded its costs in defending this action and that it be granted such other and further relief as the Court deems just and appropriate.

Dated: August 30, 2012

/s/ Barbara R. Binis

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