

**IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA**

THE SAVANNAH COLLEGE OF ART]
AND DESIGN, INC.,]
]
Plaintiff,]
]
v.]
]
SCAD REAL ESTATE HOLDINGS, LLC,]
and 3126 MONTGOMERY]
STREET, LLC,]
]
Defendants.]

Civil Action No. SPCV24-00957 FR

ANSWER AND COUNTERCLAIMS

COME NOW SCAD Real Estate Holdings, LLC and 3126 Montgomery Street, LLC (collectively “Defendants”), Defendants in the above-captioned matter, hereby respond to Plaintiff’s Complaint and assert counterclaims as follows:

AFFIRMATIVE DEFENSES

1. Plaintiff’s Complaint fails to state a claim upon which relief can be granted and therefore, should be dismissed.

**SPECIFIC ALLEGATIONS
JURISDICTION AND VENUE**

1. Defendants admit the allegations contained in Paragraph 1 of Plaintiff’s Complaint.
2. Defendants admit the allegations contained in Paragraph 2 of Plaintiff’s Complaint.
3. Defendants admit the allegations contained in Paragraph 3 of Plaintiff’s Complaint.
4. Defendants admit the allegations contained in Paragraph 4 of Plaintiff’s Complaint.

BACKGROUND FACTS

5. Defendants admit the allegations contained in Paragraph 5 of Plaintiff’s Complaint.

6. Defendants admit the allegations contained in Paragraph 6 of Plaintiff's Complaint.

7. Defendants admit the allegations contained in Paragraph 7 of Plaintiff's Complaint.

8. Defendants admit the allegations contained in Paragraph 8 of Plaintiff's Complaint.

9. Defendants are without sufficient information to either admit or deny the allegations contained in Paragraph 9 of Plaintiff's Complaint and therefore, it is denied.

10. Defendants are without sufficient information to either admit or deny whether the easement was in Plaintiff's chain of title. Defendants admit the remaining allegations contained in Paragraph 10 of Plaintiff's Complaint.

11. Defendants deny the allegations contained in Paragraph 11 of Plaintiff's Complaint.

12. Defendants admit the allegations contained in Paragraph 12 of Plaintiff's Complaint.

13. Defendants admit the allegations contained in Paragraph 13 of Plaintiff's Complaint.

14. Defendants admit the allegations contained in Paragraph 14 of Plaintiff's Complaint.

15. Defendants deny the allegations contained in Paragraph 15 of Plaintiff's Complaint.

16. Defendants deny the allegations contained in Paragraph 16 of Plaintiff's Complaint.

COUNT ONE – INJUNCTIVE RELIEF

17. Defendants incorporate their responses to Paragraphs 1-16 as if restated fully herein.

18. Defendants deny the allegations contained in Paragraph 18 of Plaintiff's Complaint.

19. Defendants deny the allegations contained in Paragraph 19 of Plaintiff's Complaint.

20. Defendants deny the allegations contained in Paragraph 20 of Plaintiff's Complaint.

21. Defendants deny the allegations contained in Paragraph 21 of Plaintiff's Complaint.
22. Defendants deny the allegations contained in Paragraph 22 of Plaintiff's Complaint.
23. Defendants deny the allegations contained in Paragraph 23 of Plaintiff's Complaint.
24. Defendants deny the allegations contained in Paragraph 24 of Plaintiff's Complaint.
25. Defendants deny the allegations contained in Paragraph 25 of Plaintiff's Complaint.

COUNT TWO – DECLARATORY RELIEF

26. Defendants incorporate their responses to Paragraphs 1-25 as if restated fully herein.

27. Defendants admit the allegations contained in Paragraph 27 of Plaintiff's Complaint.

28. Defendants admit that Plaintiff contends that it has certain rights to the property, but denies that Plaintiff's contentions are correct.

29. Defendants admit the allegations contained in Paragraph 29 of Plaintiff's Complaint.

30. Defendants deny the allegations contained in Paragraph 30 of Plaintiff's Complaint.

COUNT THREE – DAMAGES FOR ATTORNEY'S FEES AND COSTS

31. Defendants incorporate their responses to Paragraphs 1-30 as if restated fully herein.

32. Defendants deny the allegations contained in Paragraph 32 of Plaintiff's Complaint.

COUNTERCLAIMS OF DEFENDANT 3126 MONTGOMERY STREET, LLC

33. The Savannah College of Art and Design, Inc. ("SCAD") is a Georgia corporation with its principal place of business located in Savannah, Chatham County, Georgia.

34. Jurisdiction and venue are proper as to SCAD.

35. Defendant incorporates herein those allegations of Plaintiff's Complaint which have been admitted as if fully restated herein.

COUNT ONE – DECLARATORY JUDGMENT

35. Defendant contends that the easement at issue in this case does not give Plaintiff the right to use the easement area for parking.

36. Plaintiff's use of the easement area for student and faculty parking renders the lot entirely useless to Defendant and therefore unreasonably interferes with its enjoyment.

37. This case involves a justiciable controversy within the meaning of OCGA §9-4-2(a) because there are interested parties asserting adverse claims upon a statement facts which have accrued.

38. Defendant is entitled to a declaration from the Court that Plaintiff's use of the easement area is limited by the express language of the easement and that Plaintiff, including its students, faculty and staff, are not permitted to use the easement area for parking.

COUNT TWO – DAMAGES FOR ATTORNEY'S FEES AND COSTS

39. Defendant incorporates the allegations made in Paragraphs 33-38 as if restated fully herein.

40. Plaintiff has acted in bad faith and has been stubbornly litigious which has caused Defendant unnecessary trouble and expense entitling Defendant to an award of its attorney's fees and costs pursuant to OCGA §13-6-11.

WHEREFORE, Defendant prays:

(a) That the claims of Plaintiff be dismissed;

(b) That the Court enter an order declaring that Plaintiff's use of the easement area is limited by the express language of the easement and that Plaintiff, including its students, faculty and staff, are not permitted to use the easement area for parking;

(c) That Defendant 3126 Montgomery Street, LLC be awarded all attorney's fees and costs incurred in this action; and

(d) for such other and further relief as the Court deems just and proper.

This 23rd day of August, 2024.

/s/ Catherine M. Bolger
Catherine M. Bolger
State Bar No. 232464
Attorneys for Defendant

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CERTIFICATE OF SERVICE

This is to certify that I have this date served counsel for all parties in the foregoing matter with a copy of this pleading by electronic mail and by STATUTORY ELECTRONIC SERVICE through the Court's Odyssey E-Filing Notice System.

Persons served:

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This 23rd day of August, 2024.

/s/ Catherine M. Bolger
Catherine M. Bolger
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