

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

PRIME ALLIANCE BANK, INC.,
a Utah banking corporation;
and SERTANT CAPITAL, LLC,
a Delaware limited liability company,

Case No. 1:23-cv-10564-LJM-PTM
Hon. Laurie J. Michelson

Plaintiffs

v

THE GREAT LAKES TISSUE COMPANY,
a Michigan corporation,

Defendant.

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ANSWER

Defendant Great Lakes Tissue Company, Inc. (“Defendant”) for its Answer states as follows:

PARTIES, JURISDICTION, AND VENUE

1. PAB is a Utah banking corporation whose principal place of business is located at 1868 South 500 West, Woods Cross, Utah. PAB is duly authorized to conduct business in the State of Michigan.

ANSWER: Defendant lacks sufficient information of belief as to the allegations in Paragraph 1 and therefore denies the same.

2. Sertant is a Delaware limited liability company whose principal place of business is located at 620 New Newport Center Drive, Suite 1450, Newport Beach, California. Sertant is duly authorized to conduct business in the State of Michigan.

ANSWER: Defendant lacks sufficient information of belief as to the allegations in Paragraph 2 and therefore denies the same.

3. Defendant The Great Lakes Tissue Company ("GLT") is a Michigan corporation duly authorized to conduct business in the State of Michigan, whose principal place of business is located at 437 S. Main Street, Cheboygan, Michigan. Founded in about 1993, GLT manufactures recycled tissue and towel products.

ANSWER: Admit that the former company known as Great Lakes Tissue Company was located at 437 S. Main Street, Cheboygan, Michigan. Founded in about 1993, GLT manufactures recycled tissue and towel products.

4. This Court has subject matter jurisdiction under 28 U.S.C. § 1332 over Plaintiffs' claims because the matter in controversy is between citizens of different States, and the amount in controversy exceeds \$75,000.00 exclusive of costs, interest, and attorneys' fees.

ANSWER: Admit.

5. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)(1) and (b)(2) because GLT is a resident in the Eastern District of Michigan, and the events or omissions giving rise to this action occurred, in part, in this judicial district.

ANSWER: Admit.

COUNT I - BREACH OF CONTRACT

6. Plaintiffs incorporate paragraphs 1 through 5 of this Complaint.

ANSWER: Defendant incorporates paragraphs 1 through 5 of this Answer.

7. On or about October 13, 2022, Sertant, as lessor, and GLT, as lessee, entered into Master Lease Agreement No. SC-002157 ("Master Lease") under which GLT leased certain personal property from Sertant described on separate Lease Schedules executed under the Master Lease. A true and correct copy of the Master Lease is attached hereto as Exhibit "1" and is incorporated by reference.

ANSWER: Deny.

8. Accordingly, as part of the Master Lease, GLT executed Lease Schedule No. 1 ("Schedule No. 1") to the Master Lease, under which GLT agreed to lease from Sertant certain equipment and other personal property (collectively, "Equipment"). The Equipment consists of the following property described below:

	Equipment Description	Serial No.
1.	1969 Bacock & Wilcox Gas Fired 60,000 BTU Boiler	M98133M
2.	2013 Alfa Laval Heat Exchanger	30115-70081
3.	2013 Alfa Laval CB400-86H Heat Exchanger	42787870
4.	Appleton 60"x72" Core Cutter	n/a
5.	Wulftec WLP-150 Automatic Stretch Wrap Machine	0700-6317
6.	Orion SW44-12 Stretch Wrapper	7117540
7.	Black Clawson Poly Re-Claim & Stock Prep System	95-H-P-3692
8.	Beloit/Proctor & Gamble 128" Tissue Paper Machine and all accessories	n/a
9.	Lot of Laboratory Equipment and all accessories	n/a
10.	1985 Atlas Copco ZR-3 200 HP Packaged Rotary Screw Air Compressor	ARP-1200-8
11.	1985 Atlas Copco ZR-3 200 HP Packaged Rotary Screw Air Compressor	ARP-490886
12.	1978 Zurn R110A Refrigerated Air Dryer	R-9510
13.	2014 Ingersoll Rand R110 Nirvana SVD	VN1505u13175

	Equipment Description	Serial No.
16.	1998 Perini 716B 106" Toilet Roll Rewinder	09719; 19718
17.	2020 Baosuo YD-PL400C-2900 12" Bathroom Tissue Rewinder Line and all accessories	19S13005Fs
18.	1999 Perini 702G 106" JRT Rewinder and all accessories	40533
19.	1997 Perini 702G 106" JRT Rewinder Line and all accessories	8897
20.	Hobema 14-H 13" Napkin Folder	446
21.	Lot of Press, Gears, Valves, Pumps, Motors, Etc. including all components and ancillary items	n/a
22.	Clausing Colchester 17" Horizontal lathe	2312
23.	Bridgeport Series Vertical Drill	J202453
24.	Hendey Horizontal Lathe 14 x 42	121
25.	Cincinnati Milling Machine	E506J
26.	Cincinnati Bickford Drill	122
27.	Boyd & Emmes Radial Engine Horizontal Lathe	n/a
28.	Enerpac Hydraulic Press	n/a
29.	Grob NS24 Band Saw	3508
30.	Clausing Vertical Drill Press	104435
31.	Bradford Grinder	86
32.	Clausing Vertical Drill Press	511876
33.	Abrasive Machine Tool Sander	n/a
34.	Miller Bobcat 225 NT Welding Set	n/a
35.	Miller Trailblazer 30 Z Welding Set	n/a
36.	Hobart Mega Arc 300 Welding Set	n/a
37.	Misc. Hand Tools and Cabinets	n/a
38.	Rigid 802 Pipe Threader	n/a
39.	Wells Metal Band Saw	14980
40.	Miller XMT 350 CC/CV Welding Set	n/a
41.	Modern C6251x1500 Horizontal Lathe – Age 2003	n/a

	Equipment Description	Serial No.
	components and ancillary items	
43.	Caterpillar 99F – 3,500 lbs. Cap.	AT81C-00357
44.	Caterpillar 99H – 3,500 lbs. Cap.	AT81C-00944
45.	Caterpillar V-80	932200-14A
46.	Caterpillar #11 Roll Grab – 7,000 lbs. Cap.	AT8701785
47.	Caterpillar #12 Roll Grab – 7,000 lbs. Cap.	AT8701784
48.	Genie #1 Scissor lift	76192
49.	Genie #2 Scissor lift	65851
50.	Genie #3 Articulating boom	Z34N-3953
51.	Genie AWP – 300 lbs. Cap.	3892-1317
52.	Halla #11 – 4,400 lbs. Cap.	1449K
53.	Hyster S-150 – 16,000 lbs. Cap.	A24D1857P
54.	Hyster 50 – 4,800 lbs. Cap.	F187V13647F
55.	JCB 506C – 6,000 lbs. Cap.	585635
56.	JCB 506C – 6,000 lbs. Cap.	JCB5CAJLC61184611
57.	Kubota SSV65	13738
58.	Linde #5 Roll Grab – 3,700 lbs. Cap.	A11313G00184
59.	Linde #3 Roll Grab – 3,700 lbs. Cap.	A11313G00185
60.	Linde #24 – 4,500 lbs. Cap.	A11319J00224
61.	Linde #68 – 4,500 lbs. Cap.	A11319J00168
62.	Nissan #8 – 3,500 lbs. Cap.	23108

A true and correct copy of Schedule No. 1 is attached hereto as Exhibit "2" and is incorporated by reference. The Master Lease Agreement and Schedule No. 1 are collectively referred to as the "Lease."

ANSWER: Deny that Defendant executed the Lease.

9. Under the Lease, GLT agreed, among other things:

- (a) That Sertant owned and/or retained a security interest in the Equipment.
- (b) To pay \$68,082.30 per month in rent as specified in the Lease.
- (c) That the term of the Lease consisted of an initial term of forty- eight (48) months plus any applicable renewal term.
- (d) To various representations and warranties that were material to Sertant's decision to fund the Lease.
- (e) To maintain the Equipment in good operating order, condition, repair and appearance, and to protect the Equipment from deterioration other than normal wear and tear.
- (f) To permit Sertant to enter and inspect the Equipment to confirm its existence, condition, and proper maintenance.

- (g) To possess and use the Equipment in GLT's name only and not to part with possession or control of the Equipment without the prior written consent of Sertant.
- (h) To perform all other terms and conditions of the Lease.
- (i) That if GLT failed to perform any of its obligations under the Lease when due or committed any other event of default:
 - I. Sertant could declare GLT in default and exercise all of its rights and remedies under the Lease and the law.
 - II. Sertant could recover all past due payments owed under the Lease, plus all other amounts that become due in the future.
 - III. Sertant could take possession of all of the Equipment,
 - IV. wherever located.
 - V. GLT would pay Sertant all of Sertant's costs and expenses, including reasonable attorneys' fees, incurred in enforcing its rights thereunder.

ANSWER: Deny that GLT executed a Lease with Plaintiffs.

10. Under the Lease, an Event of Default occurs if: (i) GLT failed to pay "when due any installment of Rent or any other sum owed by [GLT]" and "such failure continues for a period often (10) days"; (ii) GLT changed its organizational structure without the prior written consent of Sertant; (iii) GLT undergoes any change in control, change in ownership of any type which results in a material deterioration in GLT's creditworthiness; (iv) GLT fails to maintain the Equipment in good working order, condition, repair, and appearance or to protect the Equipment from deterioration other than normal wear and tear; (v) GLT defaults in payment or performance of any obligation or indebtedness of any kind or description due or to become due; (vi) GLT failed to permit Plaintiffs to inspect the Equipment to confirm its existence, condition and proper maintenance; and/or (vii) GLT failed to comply with the terms of the Lease. (Ex. 1, i, 12, 13, 16, pp. 5-7.)

ANSWER: Deny that GLT executed a Lease with Plaintiffs.

11. On or about October 13, 2022, Sertant assigned certain Initial Period

Rent payments and residual interest rights under the Lease and the Equipment to PAB. Sertant retained other rights and interests in the Lease and the Equipment as part of the assignment. A true and correct copy of the UCC-3 Financing Statement further reflecting the assignment is attached hereto as Exhibit "3" and is incorporated by reference.

ANSWER: Defendant lacks information sufficient to for a belief as to the truth

of the allegations in Paragraph 11.

12. Plaintiffs fully performed under the Lease, or such performance was waived or excused due to GLT's breach of the Lease.

ANSWER: Deny.

13. Sertant remained the owner of the Equipment, although Sertant filed a precautionary UCC-1 Financing Statement with the Michigan Secretary of State's Office, a true and correct copy of which is attached hereto as Exhibit "4" and is incorporated by reference.

ANSWER: Deny that Sertant was ever the owner of the Equipment. Defendant lacks information sufficient to form a belief as to the truth of the allegations in Paragraph 13.

14. GLT materially breached and committed Events of Default under the Lease by, among other things:

- (a) failing to pay rent due under the Lease on January 1, 2023 and February 1, 2023, as reflected in GLT's payment history, a true copy of which is attached as Exhibit "5" hereto and is incorporated by reference;**
- (b) changing ownership, control and/or management of GLT without Lessor's prior written consent resulting in a material deterioration of GLT's creditworthiness as determined by Plaintiffs in their sole discretion.**
- (c) refusing to permit Lessor to inspect the Equipment, despite Plaintiff's request;**
- (d) on information and belief, failing to keep and maintain the Equipment in the condition required under the Lease;**
- (e) failing to provide the financial and business information and documents as requested by Plaintiffs, including information on GLT's new management;**
- (f) defaulting in the payment or performance of obligations or indebtedness due or to become due;**
- (g) permitting or causing the occurrence of an Adverse Change as defined in the Lease; and**
- (h) taking or failing to take other actions as may be discovered.**

ANSWER: Deny.

15. GLT changed ownership, management, and/or control of GLT in early January 2023, without Plaintiffs' prior written consent, in violation of the Lease. Plaintiffs first received notice of the change of control on January 25, 2023 based on an email from GLT's former counsel; a copy is attached hereto as Exhibit "6" and is incorporated by reference.

ANSWER: Admit that the current ownership purchased GLT in January of 2023. Defendant lacks sufficient information to form a belief as to the truth of the remaining allegations and therefore denies the same.

16. Plaintiffs repeatedly demanded that GLT comply with the Lease. Despite these demands, GLT failed and refused to perform as agreed.

ANSWER: Admit that Plaintiffs made demands. Defendant affirmatively states that no valid Lease exists.

17. Because of GLT's material breach and Events of Default under the Lease, Plaintiffs exercised their right to accelerate and declare immediately due and payable all rent payments now and in the future due under the Lease and all other amounts owed under the Lease. Plaintiffs have demanded that GLT perform its obligations owed under the Lease. A true and correct copy of Plaintiffs' February 3, 2023 demand letter is attached hereto as Exhibit "7" and is incorporated by reference.

ANSWER: Deny that Defendants committed a breach but admit that plaintiffs have make the demands alleged.

18. As a direct and proximate cause of GLT's material breach of and Events of Default under the Lease, Plaintiffs incurred general, special, and consequential damages in an amount according to proof at trial which are no less than \$2,278,162.75 as of March 2, 2023, plus late charges, default interest, costs and attorneys' fees which accrue; plus Plaintiffs' residual interest in the Equipment. Further, Plaintiffs are also entitled to immediate possession of the Equipment since Sertant is the owner thereof in addition to damages for the breach or, alternatively, such other remedies provided for under the Lease as Plaintiffs may elect. A copy of the GLT account balance statement is attached hereto as Exhibit "8" and is incorporated by reference.

ANSWER: Deny.

19. The Lease provides for payment of reasonable attorneys' fees and all expenses incurred by Plaintiffs in enforcing the Lease. Because GLT breached the Lease, Plaintiffs have been obliged to retain attorneys to enforce their rights. Sertant is, therefore, entitled to recover its reasonable attorneys' fees and costs of collection.

ANSWER: Deny.

COUNT II - CLAIM AND DELIVERY

20. Plaintiffs incorporate paragraphs 1 through 19 of this Complaint.

ANSWER: Defendants incorporate paragraphs 1 through 19 of the Answer.

21. Plaintiffs are the owners of the Equipment, and GLT's right to have the quiet use and enjoyment of the Equipment immediately terminated after GLT materially breached and committed Events of Default under the Lease. The Equipment is specifically described above in paragraph 8 of this Complaint and is incorporated by reference. The Equipment consists of independent pieces of property.

ANSWER: Deny.

22. Despite Plaintiffs' termination of the Lease, GLT has wrongfully retained possession of and exercised dominion and control over the Equipment that has been unlawfully detained from Plaintiffs by GLT.

ANSWER: Admit that GLT has retained possession of and exercised dominion and control over the Equipment but deny that it is was wrongful.

23. To the best of Plaintiffs' knowledge, the Equipment is not in the custody of the law by a warrant for the collection of tax assessment.

ANSWER: Defendant lacks information sufficient to for a belief as to the truth of the allegations in Paragraph 23.

24. Plaintiffs have made demands upon GLT to surrender possession of the Equipment, but GLT failed, neglected and/or refused to surrender the Equipment all to Plaintiffs' damage. Exhibit 7 reflects one such demand.

ANSWER: Admit that GLT has refused to surrender the Equipment but deny that there was an obligation to do so.

25. Because of GLT's material breach of, and Events of Default under, the Lease, Plaintiff has a right to immediate possession of the Equipment.

ANSWER: Deny.

26. If GLT retains possession Plaintiffs' Equipment, Plaintiffs justifiably believe that the Equipment will be damaged, destroyed, concealed, disposed of, or used so as to substantially impair its value before final judgment unless the Equipment is taken into custody by court order. Despite the multiple defaults under the Lease, Plaintiffs are informed and believe that either (a) GLT has continued to use the Equipment to generate income without making any payment therefore; or (b) the Equipment is being exposed to the weather and is not being maintained in accordance with the Lease or at all.

ANSWER: Deny.

27. Plaintiffs will be immediately and irreparably injured and damaged if GLT continues using the Equipment, notwithstanding GLT's default under the Lease. On information and belief, and as set forth above, the Equipment is not being maintained and is in danger of destruction. Further, to the extent it is being used, the Equipment continues to depreciate through continued wear and tear without any payment being made to Plaintiffs.

ANSWER: Deny.

28. On February 1, 2023, Plaintiffs received a letter from Kip Boie, the former principal of GLT, a true copy of which is attached hereto as Exhibit "9" and is incorporated by reference. In this letter, Mr. Boie indicated:

- (a) GLT's building located at 437 S. Main Street, Cheboygan, Michigan ("GLT Premises") is and has been, in urgent need of repair;**
- (b) the roof recently collapsed due to weather conditions;**
- (c) GLT laid off fifty (50) workers immediately before the December holidays; and**
- (d) GLT's engineer visited GLT's Premises and recommended to the County Building Inspector that the building be condemned.**

ANSWER: Defendant lacks information sufficient to for a belief as to the truth of the allegations in Paragraph 28.

29. On February 13, 2023, Mr. Boie sent Plaintiffs' counsel an email linking various local Cheboygan news reports, a true and correct copy of which is attached hereto as Exhibit "10" and is incorporated by reference. A true and correct copy of screen prints taken from the report reflecting the distressing condition of the GLT Premises is attached hereto as Exhibit "11" and incorporated by reference.

ANSWER: Defendant lacks information sufficient to for a belief as to the truth of the allegations in Paragraph 29.

30. Mr. Boie's counsel further confirmed in a February 10, 2023 email (as reflected in Exhibit 10) that "even if Great Lakes Tissue Group wanted to give access to Sertant, we cannot" since Mr. Boie no longer has decision-making power at GLT. Counsel suggested that Plaintiffs contact counsel for the new ownership to request an inspection. Plaintiffs made that request, but to no avail, as reflected in the email chain ending February 16, 2023. A true and correct copy of this email chain is attached hereto as Exhibit "12" and is incorporated by reference. To date, GLT has not permitted any inspection. Plaintiffs justifiably fear that GLT refused to permit inspection of the Equipment because it failed to keep and maintain it in good operating condition and to protect it from deterioration.

ANSWER: Defendant lacks information sufficient to for a belief as to the truth of the allegations in Paragraph 30.

31. Online searches and news reports reflect, at best, numerous questions and potential concerns about the new management team running GLT. True and correct copies of recent news reports (February 9, 2023) are attached hereto as Exhibit "13" are incorporated by reference. Plaintiffs know nothing about the experience and capabilities of the GLT's newly appointed Chief Executive Officer, Mr. Prange, or the consultants and other offers advising him. The NBC news report states:

Under its new name, Tissue Depot, the factory will be one of the largest employers of Cheboygan, but there are concerns with all the turnover and silence about what exactly is happening behind the scenes.

See Exhibit 13.

ANSWER: Admit that media coverage occurred but Defendant lacks information sufficient to for a belief as to the truth of the remaining allegations in Paragraph 32.

32. Plaintiffs note that a company called "Tissue Depot" in Cheboyban, Wisconsin (not Michigan), run by Mr. Prange's father, Jim Prange, experienced legal troubles, thereby raising additional questions for due diligence purposes. A true and correct copy of an online post from the "Oneida Eye" Twitter feed is attached hereto as Exhibit "14" and is incorporated by reference.

ANSWER: Deny.

33. Regardless of the character or lack of character of new management (Plaintiffs do not know one way or another simply based on internet and news reports), Plaintiffs are informed and believe that their Equipment is in immediate jeopardy and needs to be secured.

ANSWER: Deny that the Equipment is in peril. Deny remaining allegations in Paragraph 33.

34. As reflected in the September 27, 2022 appraisal attached hereto as Exhibit "15," the orderly liquidation value of the Equipment was appraised at \$4,375,200.00, and the forced liquidation value was \$3,450,900. Plaintiffs believe that these amounts represent the approximate value of the Equipment. If this Court does not award possession to Plaintiffs, Plaintiffs justifiably believe that the Equipment will be damaged, destroyed, concealed, disposed of, or used so as to substantially impair its value before final judgment.

ANSWER: Deny.

35. Plaintiffs believe that no security is required to enter an order awarding possession to them. GLT has no equity in the Equipment. This transaction is a lease, not a loan; the Equipment is not collateral. Plaintiffs own the Equipment. Plaintiffs are entitled to possession of the Equipment.

ANSWER: Deny.

36. Plaintiffs request possession of the Equipment pending final judgment.

ANSWER: Admit that Plaintiffs request possession of the Equipment but deny that Plaintiffs are entitled to such relief.

37. Good cause exists for this Court to enter an immediate order directing GLT to refrain from damaging, destroying, concealing, disposing of, or using so as to substantially impair its value, the Equipment until further order of the Court.

ANSWER: Deny.

COUNT III - CONVERSION

38. Plaintiffs incorporate paragraphs 1 through 37 of the Complaint.

ANSWER: Defendants incorporate paragraphs 1 through 37 of the Answer.

39. Without justification, GLT has intentionally and substantially interfered with and exercised continued wrongful dominion and control over the Equipment. Following GLT's default, Plaintiffs have had the right to possess the Equipment immediately. GLT's right to the quiet use and enjoyment of the Equipment immediately ceased without further notice. Despite Plaintiffs' demand, GLT has failed and refused to deliver possession of the Equipment to Plaintiffs. As a result, the Equipment is being wrongly detained by GLT.

ANSWER: Deny that Sertant owns the Equipment and that GLT signed a Lease with Sertant and therefore deny the allegations in Paragraph 39.

40. As a proximate result of GLTs unjustified and improper interference with

and exercised dominion and control over the Equipment, Plaintiffs have suffered continuing damages over \$75,000.00, exclusive of costs, exemplary damages, interest, and attorneys' fees; plus are entitled to the immediate return of their Equipment so that it may be sold or leased to third parties.

ANSWER: Deny.

AFFIRMATIVE DEFENSES

Defendant invokes the following affirmative defenses:

1. Failure to state a claim upon;
2. Failure to serve process;
3. Lack of consideration;
4. Fraud;
5. Illegality;
6. Unconscionability;
7. Statute of Frauds;
8. Estoppel; and
9. Unclean hands

Dated April 17, 2023

HANSEN REYNOLDS LLC

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