CAUSE NO. DC-18-06835

FEE, SMITH, SHARP & VITULLO,	§	IN THE DISTRICT COURT
LLP, AND ANTHONY VITULLO	§	
	§	
Plaintiffs,	§	
	§	
V.	§	
	§	95TH JUDICIAL DISTRICT
BLOCK GARDEN & McNEILL, LLP,	§	
f/k/a BLOCK & GARDEN, LLP,	§	
CHRISTOPHER McNEILL, AND	§	
STEVEN BLOCK,	§	
	§	
Defendants	§	DALLAS COUNTY, TEXAS

DEFENDANTS' FIRST AMENDED ANSWER

Defendants Block Garden & McNeill, LLP, ("BGM"), Christopher McNeill ("McNeill"), and Steven Block ("Block") (collectively, "Defendants") file this First Amended Answer to Plaintiffs' Fee, Smith, Sharp & Vitullo, LLP ("FSSV") and Anthony Vitullo ("Vitullo") (collectively, "Plaintiffs") Third Amended Petition, and respectfully show the following:

I. <u>GENERAL DENIAL</u>

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendants generally deny each and every allegation in Plaintiffs' Third Amended Petition and demand strict proof thereof by the appropriate standard of proof.

II. AFFIRMATIVE AND OTHER DEFENSES

Subject to and without waiver of the foregoing general denial, Defendants assert the following defenses:

1. Plaintiffs' claims and/or alleged damages/relief are barred or reduced in whole or in part by judicial estoppel.

DEFENDANTS' FIRST AMENDED ANSWER

2. Plaintiffs' claims and/or alleged damages/relief are barred or reduced in whole or in part by quasi-estoppel and/or estoppel by conduct.

3. Plaintiffs' claims and/or alleged damages/relief are barred or reduced in whole or in part by judicial-proceedings immunity.

4. Plaintiffs' claims and/or alleged damages/relief are barred or reduced in whole or in part by the litigation privilege.

5. Plaintiffs' claims and/or alleged damages/relief are barred or reduced in whole or in part because Plaintiffs' alleged damages are not compensable injuries.

6. Plaintiffs' claims and/or alleged damages/relief are barred or reduced in whole or in part because the alleged wrongful conduct by Defendants was privileged or justified.

7. Defendants reserve the right to supplement or amend their answer.

III. <u>CONCLUSION</u>

For the foregoing reasons, Defendants respectfully request the Court enter judgment that Plaintiffs take nothing by reason of Plaintiffs' lawsuit, that Defendants be awarded their costs of suits, including costs of Court and reasonable legal expenses and attorneys' fees, and for any and other further relief, both at law and in equity, to which Defendants may be justly entitled. DATED: November 14, 2019

Respectfully submitted,

/s/ Daniel C. Polese Eric W. Pinker Texas Bar No. 16016550 epinker@lynnllp.com Daniel C. Polese Texas Bar No. 24102364 dpolese@lynnllp.com LYNN PINKER COX & HURST, LLP 2100 Ross Avenue, Suite 2700 Dallas, Texas 75201 Telephone: (214) 981-3800 Facsimile: (214) 981-3839

ATTORNEYS FOR DEFENDANTS BLOCK GARDEN & McNEILL, LLP, CHRISTOPHER McNEILL, AND STEVEN BLOCK

CERTIFICATE OF SERVICE

The undersigned certifies on November 14, 2019, a true and correct copy of the foregoing document was served on all counsel of record via electronic filing.

/s/ Daniel C. Polese Daniel C. Polese