

CAUSE NO. 417-04885-2016

CALCO LAND DEVELOPMENT, LLC, <i>Plaintiff,</i>	§	IN THE DISTRICT COURT
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	§	
	§	
	§	
v.	§	417TH DISTRICT COURT
	§	
	§	
	§	
UNITY RESOURCES, LLC, MARK THOMAS MERSMAN, MARK JOSEPH SOLOMON, JR., TRADE RARE, LLC, BYRON K. COOK, and JOEL HOCHBERG, <i>Defendants.</i>	§	
	§	
	§	COLLIN COUNTY, TEXAS

DEFENDANTS' ORIGINAL ANSWER AND VERIFIED DENIAL

NOW COME Unity Resources, LLC, Mark Thomas Mersman, and Mark Joseph Solomon, Jr. ("Defendants"), named Defendants in the above-styled and numbered cause, and file this Original Answer and Verified Denial, and show the Court:

I. GENERAL DENIAL

Defendants deny each and every allegation of Plaintiff's Original Petition, and demands strict proof thereof as required by the Texas Rules of Civil Procedure.

II. VERIFIED DENIAL

1. Plaintiff does not have legal capacity to sue for the claims alleged.

2. Plaintiff is not entitled to recover in the capacity in which it sues.

III. AFFIRMATIVE DEFENSES

Defendant asserts the following affirmative defenses:

1. Failure to Mitigate. Plaintiff's recovery is limited by the failure to mitigate damages doctrine.
2. Waiver. Plaintiff's claims are barred by the doctrine of waiver.
3. Estoppel. Plaintiff's claims are barred by the doctrine of promissory estoppel.

IV. PRAYER

Defendants pray the Court, after notice and hearing or trial, enters judgment in favor of Defendants, awards Defendants the costs of court, attorney's fees, and such other and further relief as Defendants may be entitled to in law or in equity.

Respectfully submitted,


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By: 

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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing *Defendants' Original Answer and Verified Denial* has been forward to all counsel and/or parties of record in accordance with Texas Rules of Civil Procedure 21 and 21a, on this the 12th day of December, 2016.



W. Todd Albin
Attorney for Defendants

