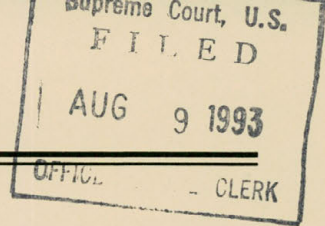


No. 111 ORIGINAL



IN THE
Supreme Court of the United States

OCTOBER TERM, 1993

STATE OF DELAWARE,

Plaintiff,

STATE OF TEXAS,

Plaintiff-Intervenor,

vs.

STATE OF NEW YORK,

Defendant.

**ANSWER OF THE STATE OF NEW YORK TO
THE AMENDED COMPLAINT OF THE STATES
OF MICHIGAN, MARYLAND AND NEBRASKA**

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August 6, 1993

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The State of New York, defendant, by its counsel, for its Answer to the Amended Complaint of the States of Michigan, Maryland and Nebraska ("Mich., *et al.*"), says:

1. Admits paragraph 1.
2. Admits paragraph 2.
3. Admits paragraph 3.
4. Admits paragraph 4.

5. Admits paragraph 5.
6. Admits paragraph 6.
7. Admits paragraph 7 but denies that it accurately reflects the Court's decision which speaks for itself.
8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 which relate to the respective unclaimed property laws of Mich., *et al.*
9. Admits paragraph 9.
10. Admits paragraph 10 except denies that "Unclaimed Funds" include "profits" and denies that there are "other nonbrokerage firm intermediaries."
11. Denies paragraph 11.
12. Denies paragraph 12.
13. Admits only that paragraph 13 asserts claims by Mich., *et al.* to relief under the Court's primary rule.
14. Admits only that paragraph 14 asserts claims by Mich., *et al.* to relief under the Court's backup rule.
15. Admits only that paragraph 15 asserts claims by Mich., *et al.* to relief under principles to be announced by the Court.
16. Admits only that paragraph 16 asserts alternative claims by Mich., *et al.* to relief pursuant to these States' allocation theory based on commercial activity.

AFFIRMATIVE DEFENSES

17. The affirmative defenses previously raised by New York to the complaints in intervention are repeated and realleged as though fully set forth herein.
18. Mich., *et al.* fail to state a claim upon which relief can be granted under the Court's primary rule because they have not

identified any owners of Distributions with last known addresses in their respective States on the debtor intermediaries' books and records whose property has been remitted to New York.

19. Mich., *et al.* fail to state a claim upon which relief can be granted under the Court's backup rule because they have not identified any debtor intermediaries incorporated in their respective States who have remitted Distributions to New York when there are no last known addresses of creditors on the debtor intermediaries' books and records.

20. Mich., *et al.* fail to state a claim upon which relief can be granted under their alternative allocation theory based on commercial activity since the Court has rejected it.

COUNTERCLAIMS

21. New York claims entitlement to the custodial possession of Distributions wrongfully taken by Mich., *et al.* which are owed to creditors whose last known addresses on the debtor intermediaries' books and records are in New York.

22. New York claims entitlement to the custodial possession of Distributions wrongfully taken by Mich., *et al.* from debtor intermediaries incorporated in New York when the creditors' last known addresses are not shown by the debtor intermediaries' books and records.

23. New York claims entitlement to the custodial possession of Distributions wrongfully taken by Mich., *et al.* from debtor intermediaries whose principal places of business are in New York when the debtor intermediaries' books and records do not show the creditors' last known addresses and the debtor intermediaries are not incorporated in any State.

24. New York claims entitlement to the custodial possession of Distributions wrongfully taken by Mich., *et al.* and owed to New York pursuant to any ruling, principle or determination announced or to be announced by the Court.

PRAYER FOR RELIEF

WHEREFORE, the State of New York prays:

1. Mich., *et al.*'s prayer for relief be denied.
2. Judgment be entered on New York's counterclaims for any Distributions to which New York is entitled which were wrongfully taken by Mich., *et al.*, plus prejudgment interest at the prevailing rate.
3. Such other and further relief as this Court deems just and proper.

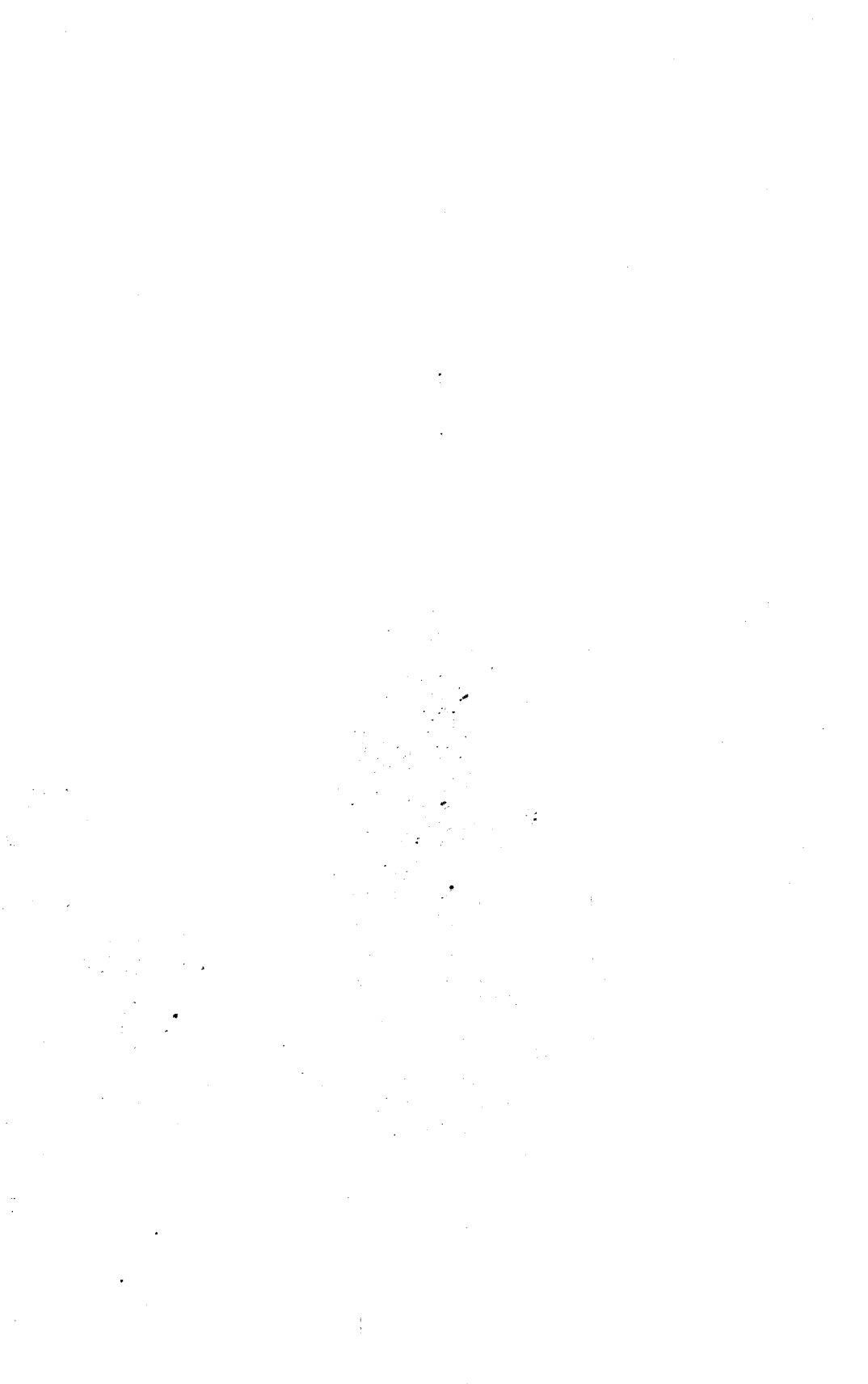
Dated: New York, New York
August 6, 1993

Respectfully submitted,

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