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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA**

MARTIN SANCHEZ, individually,

Plaintiff,

vs.

ARIZONA BARRIO STORIES, an Arizona  
Domestic Nonprofit Corporation; GIL BIVENS  
and JOANN BIVENS, husband and wife,

Defendants.

No. CV2024-027320

**DEFENDANTS' FIRST AMENDED  
ANSWER  
and  
COUNTERCLAIM  
(Defamation, Tortious Interference)**

(Tier 2 case)

(Before the Hon. Susanna Pineda)

Defendants Gil Bivens and Joann Bivens ("Defendants Bivens"), and Defendant Arizona Barrio Stories ("Defendant AZBS"), by and through their undersigned counsel, file Defendants' First Amended Answer and Counterclaim in this matter. Defendants did not include a filing certificate at the end of their Answer and Counterclaim, a mailing certificate has been included in this Amended Answer and Counterclaim. Defendants hereby admit, deny, and affirmatively allege as follows:

**PARTIES/JURISDICTION/VENUE**

1. Defendants admit that Plaintiff Martin Sanchez is a resident of the State of Arizona.

1 Defendants deny each and every remaining allegation.

2 2. Defendants Gil Bivens and Joann Bivens admit they are residents of Arizona.  
3 Defendants deny each and every remaining allegation.

4 3. Defendants, on behalf of Defendant AZBS, admit that AZBS is an Arizona  
5 Domestic Nonprofit Corporation. Defendants deny each and every remaining allegation.

6 4. This Court has subject matter jurisdiction and personal jurisdiction over all of the  
7 parties listed herein above. Defendants deny each and every remaining allegation.

8 5. Defendants deny that this matter should be assigned a Tier 1 designation and should  
9 instead be designated as a Tier 2 designation due the complexity of the matter and the damages  
10 requested by Defendants. Defendants deny each and every remaining allegation.

11 **COUNT ONE**  
12 **(Breach of Contract)**  
13 **(As to Bivens)**

14 6. Defendants neither admit nor deny the allegations contained in paragraph 6.

15 7. Defendant Gil Bivens admits having conversations with Plaintiff Martin Sanchez  
16 on or around October of 2020 about a number of matters but denies that a contract to form AZBS  
17 was ever entered into. Defendants deny each and every remaining allegation set forth in paragraph  
18 7.

19 8. Defendant Gil Bivens admits posting a social media post on October 11, 2020, on  
20 the account of Arizona Barrios Stories with a photograph of Plaintiff Martin Sanchez. Defendant  
21 Gil Bivens denies that he referred to Defendant Martin Sanchez as a business partner with respect  
22 to Defendant AZBS. Defendants deny any remaining allegations.

23 9. Defendant Gil Bivens admits that he and Plaintiff Martin Sanchez drafted a "Letter  
24 of intent to form a partnership" on January 27, 2021. The letter of intent was an informal  
25 understanding that the parties intended to form a partnership sometime in the future. The  
partnership agreement was never drafted or entered into by Defendant Gil Bivens and Plaintiff

1 Martin Sanchez. There was never a meeting of minds or mutual assent with respect to any contract  
2 between Defendant Gil Bivens and Plaintiff Martin Sanchez. There was also no written contract  
3 entered into for the formation of Arizona Barrio Studios. Establishing a “studio” was never  
4 discussed by the parties. Moreover, the fact that Plaintiff Martin Sanchez waited almost four years  
5 to attempt to enforce the alleged “contract” is further evidence that Plaintiff Martin Sanchez  
6 understood that a contract was never formed. Defendants deny any remaining allegations.

7 10. Defendant Gil Bivens admits posting a social media post on January 30, 2021.  
8 Defendant Gil Bivens denies that he referred to Defendant Martin Sanchez as a business partner  
9 with respect to Defendant AZBS. Defendants deny any remaining allegations.

10 11. Defendant Gil Bivens admits sending a text to Plaintiff Martin Sanchez on May 27,  
11 2023. However, as required by the “Letter of intent to form a partnership” dated January 27, 2021,  
12 a contract to form a partnership sometime in the future was never entered into between Defendant  
13 Gil Bivens and Plaintiff Martin Sanchez. Therefore, Defendant Gil Bivens was not obligated to  
14 provide a “financial report” to Plaintiff Martin Sanchez. Defendants deny any remaining  
15 allegations.

16 12. Defendants deny that a “contract” was ever formed between Defendant Gil Bivens  
17 and Plaintiff Martin Sanchez. The only agreement entered into was a “Letter of intent to form a  
18 partnership.” That letter of intent was an informal understanding that the parties intended to form  
19 a partnership sometime in the future. A detailed partnership agreement was never drafted;  
20 therefore, no contract was ever entered into by the parties. The Defendants deny any remaining  
21 allegations.

22 13. Defendant Gil Bivens admits that on August 2, 2023, Plaintiff Martin Sanchez’s  
23 attorney, Robert Andy Rojas, sent him a letter demanding an accounting. Defendant Gil Bivens  
24 admits not producing an accounting because a contract between him and Plaintiff Martin Sanchez  
25 had never been entered into. Defendants deny any remaining allegations.

1                                   **COUNT ONE (sic)**  
2                                   **(Should be Count Two)**  
3                                   **Breach of Contract**  
                                      **(As to Bivens)**

- 4           14.   Defendants neither admit nor deny the allegations contained in paragraph 6.  
5           15.   Defendants deny each and every allegation contained in paragraph 15.  
6           16.   Defendants deny each and every allegation contained in paragraph 16.  
7           17.   Defendants deny each and every allegation contained in paragraph 17.  
8           18.   Defendants deny each and every allegation contained in paragraph 18.

9                                   **COUNT TWO (sic)**  
10                                  **(Should be COUNT THREE)**  
11                                  **Negligent Misrepresentation**  
                                      **(As to Bivens)**

- 12           19.   Defendants neither admit nor deny the allegations contained in paragraph 19.  
13           20.   Defendants deny each and every allegation contained in paragraph 20.  
14           21.   Defendants deny each and every allegation contained in paragraph 21.  
15           22.   Defendants deny each and every allegation contained in paragraph 22.  
16           23.   Defendants deny each and every allegation contained in paragraph 23.  
17           24.   Defendants are unaware of who Defendants “Roofing” are. Defendants deny each  
and every allegation contained in paragraph 24.

18                                  **COUNT THREE (sic)**  
19                                  **(Should be COUNT FOUR)**  
20                                  **ACCOUNTING**  
                                      **(As to Bivens, ABS)**

- 21           25.   Defendants neither admit nor deny the allegations contained in paragraph 25.  
22           26.   Defendants deny each and every allegation contained in paragraph 26.  
23           27.   Defendants are unaware of who Defendants “Roofing” are. Defendants deny each  
24 and every allegation contained in paragraph 27.  
25           28.   All remaining allegations of the Complaint not specifically admitted or qualified are

1 denied.

2 **AFFIRMATIVE DEFENSES**

- 3 1. Failure to state a claim upon which relief can be granted.  
4 2. Lack of formation of contract.  
5 3. Lack of mutual assent.  
6 4. Accord and satisfaction.  
7 5. Estoppel.

8 WHEREFORE, having fully responded to Plaintiff's Complaint, Defendants request:

- 9 1. That the above-referenced case be dismissed and that Plaintiff be awarded nothing  
10 against Defendants.  
11 2. That Defendants be awarded attorneys' fees pursuant to A.R.S. §12-341.01 and  
12 costs incurred herein.  
13 3. Such other and further relief as the Court deems just.

14 DATED this 27<sup>th</sup> day of November, 2024

15 GUTIÉRREZ LAW FIRM, P.C.

16 By /s/ Francisco X. Gutiérrez  
17 Francisco X, Gutiérrez

18 **COUNTERCLAIM**

19 Defendants for their counterclaim against the Plaintiff Martin Sanchez, complain and  
20 allege:

- 21 1. The above-named Court acquired jurisdiction over Plaintiff Martin Sanchez and the  
22 subject matter of this counterclaim by reason of Plaintiff's original action filed herein.  
23 2. Plaintiff Martin Sanchez has publicly accused Defendant Gil Bivens of misappropriating  
24 funds from his various businesses. Plaintiff Martin Sanchez' attorney, Robert Andy Rojas, has also  
25 made such accusations to third party witnesses.  
3. Plaintiff Martin Sanchez has publicly slandered Defendant Gil Bivens on various

occasions, including, but not limited to, posting on social media that Defendant Gil Bivens is a “scammer” and a “brown opportunist” who “takes advantage of the Latino Community.”

4. Plaintiff Martin Sanchez has also intentionally interfered with Defendant Gil Biven’s contractual relations. In one instance, on or about October 9, 2024, Plaintiff Martin Sanchez had his attorney, Robert Andy Rojas, intimidate and harass community organizer Isaac Serna. Isaac Serna is an organizer of the annual Playa Margarita Park Show & Shine Event (“Playa Margarita Event”). Plaintiff Gil Bivens had paid Mr. Serna to have AZBS sponsor the Playa Margarita Event. After being harassed by attorney Rojas, Mr. Serna called Defendant Gil Bivens and advised him that AZBS could no longer sponsor the Playa Margarita Event and returned Defendant Gil Bivens’ payment for the sponsorship. *See* Affidavit of Isaac Serna, attached as Exhibit 1.

5. Defendant Martin Sanchez published all of the false statements with knowledge of their falsity and/or reckless disregard for their truth. It is evident that the false statements have been intentionally shared with the public with malice, spite, ill will and with the intent of causing harm to the reputation and economic interests of Defendant Gil Bivens.

6. As a result of Plaintiff Martin Sanchez’ intentional actions in defaming Defendant Gil Bivens, and also placing him in a false light, have caused Defendant Gil Bivens to suffer humiliation, extreme emotional distress, anxiety and loss of self-esteem.

7. As a result of Plaintiff Martin Sanchez’ intentionally interfering with Defendants’ contractual relations, Defendants have sustained and will continue to sustain, immediate and irreparable harm and injury, including, but not limited to, damage to reputation, loss in revenues, loss of profits, and loss of competitive business advantage, opportunity, and/or expectancy.

## **COUNT I DEFAMATION AND DEFAMATION PER SE**

8. All of the allegations contained within the paragraph above and below are hereby

1 incorporated by reference as if fully set out herein.

2 9. The false statements made by Plaintiff Martin Sanchez are about and concerning  
3 Defendants.

4 10. Plaintiff Martin Sanchez communicated these false statements to the public, including  
5 via the Internet, which were accessible to the public.

6 11. The public has heard the false statements or viewed the false statements on the  
7 Internet and commented on the false statements.

8 12. It is evident that the false statements were shared with the public with malice, spite,  
9 or ill will and with the intent of causing harm to the reputation and economic interests of Defendants.

10 13. The false statements impeach the honesty, integrity, or reputation of Defendants.

11 14. The false statements bring Defendants into disrepute, contempt, or ridicule.

12 15. The false statements made by Plaintiff Martin Sanchez constitute defamation per se  
13 and general damages are presumed as a matter of law.

14 16. In making and sharing the false statements, Plaintiff Martin Sanchez had knowledge  
15 of or acted in reckless disregard as to the falsity of the false statements.

16 17. Plaintiff Martin Sanchez shared the false statements knowing they would result in  
17 pecuniary loss, as well as irreparable harm.

18 18. As a direct and proximate result of Plaintiff Martin Sanchez sharing the false  
19 statements, Defendants have sustained, and will continue to sustain, immediate and irreparable harm  
20 and injury including, but not limited to, damage to reputation, losses in revenues, loss of profits,  
21 loss of goodwill, loss of business relations and loss of competitive business advantage, opportunity,  
22 and/or expectancy.

23 19. As a direct and proximate cause of the conduct by Plaintiff Martin Sanchez,  
24 Defendants have suffered, and will continue to suffer humiliation, extreme emotional distress,  
25 anxiety, anguish and loss of self-esteem.

20. Defendants have suffered general and special damages in an amount to be proven at trial.

21. For such willful and malicious acts, Defendants seek punitive damages in addition to actual damages.

22. Plaintiff Martin Sanchez' acts, omissions, conduct, and transactions, alleged herein were aggravated, outrageous, and guided by evil motives wherein Plaintiff Martin Sanchez intended to harm Defendants and/or consciously pursued a course of conduct knowing it created a substantial risk of significant harm to Defendants.

23. To dissuade Plaintiff Martin Sanchez from pursuing a similar course of conduct in the future, an award of punitive damages should be awarded to Defendants in the sum of sufficient magnitude to punish Plaintiff Martin Sanchez.

**COUNT II**  
**TORTIOUS INTERFERENCE WITH BUSINESS RELATIONSHIPS**

24. All of the allegations contained within the paragraph above and below are hereby incorporated by reference as if fully set out herein.

25. Defendants have existing business relationships with individuals, entities, and organizations relating to their businesses.

26. Defendants have a reasonable expectation of future business relationships with existing businesses, prospective businesses, and others with whom Defendants do business.

27. At all material times Plaintiff Martin Sanchez was aware of Defendants existing and/or prospective business relationships.

28. Plaintiff Martin Sanchez intentionally interfered with Defendants' contractual relationship with Isaac Serna and the Playa Margarita Event. Causing Isaac Serna to cancel Defendants sponsorship contract.

29. As a direct and proximate result of Plaintiff Martin Sanchez interfering with



1 Defendants sponsorship contract with Isaac Serna, Defendants have sustained, and will continue to  
2 sustain, immediate and irreparable harm and injury including, but not limited to, damage to  
3 reputation, losses in revenues, loss of profits, loss of goodwill, loss of business relations and loss of  
4 competitive business advantage, opportunity, and/or expectancy.

5 30. Defendants have suffered general and special damages in an amount to be proven at  
6 trial.

7 31. For such willful and malicious acts, Defendants seek punitive damages in addition to  
8 actual damages.

9 32. Plaintiff Martin Sanchez' acts, omissions, conduct, and transactions, alleged herein  
10 were aggravated, outrageous, and guided by evil motives wherein Plaintiff Martin Sanchez intended  
11 to harm Defendants and/or consciously pursued a course of conduct knowing it created a substantial  
12 risk of significant harm to Defendants.

13 33. To dissuade Plaintiff Martin Sanchez from pursuing a similar course of conduct in the  
14 future an award of punitive damages should be awarded in favor of Defendants in the sum of  
15 sufficient magnitude to punish Plaintiff Martin Sanchez.

16 WHEREFORE, Defendants demand judgment against Plaintiff Martin Sanchez as follows:

17 1. For a permanent injunction enjoining Plaintiff Martin Sanchez from engaging in the  
18 aforementioned tortious conduct.

19 2. For a permanent injunction enjoining Plaintiff Martin Sanchez from publishing any  
20 other defamatory material pertaining to Defendants to any third party.

21 3. For general, special and punitive damages in an amount to be proven at trial.

22 4. For attorneys' fees and taxable costs pursuant to A.R.S. §12-341.01.

23 5. For interest on the foregoing attorneys' fees and court costs at the statutory rate from  
24 the date of judgment until paid.

25 6. For prejudgment and post-judgment interest on all damages at the highest rate

1 allowed by law from the date of injury until paid in full.

2 7. For such other and further relief as the Court deems just and proper.

3 DATED this 5<sup>th</sup> day of December 2024

4 GUTIÉRREZ LAW FIRM, P.C.

5 By /s/ Francisco X. Gutiérrez  
Francisco X, Gutiérrez

6 ORIGINAL of the foregoing  
7 filed electronically via TurboCourt  
8 this 5<sup>th</sup> day of December 2024.

9 COPY sent electronically via  
10 TurboCourt this 5<sup>th</sup> day of  
December 2024 to:

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14 *Attorney for Plaintiff Sanchez*

15 By /s/ Yolanda Gutiérrez  
Yolanda Gutiérrez