

**Cause No. CC-16-03169-B**

**ICHEL MARIA COOK,**

**Plaintiff,**

**v.**

**PHILIP J. ROMANO,**

**Defendant.**

§  
§  
§  
§  
§  
§  
§  
§

**IN THE COUNTY COURT AT LAW**

**OF DALLAS COUNTY**

**COURT NO. 2**

**DEFENDANT’S ORIGINAL ANSWER**

Defendant Philip J. Romano (“Defendant”) files his Original Answer to Plaintiff Ichel Maria Cook’s Verified First Amended Petition (the “Petition”), and respectfully shows the Court the following:

**I.  
GENERAL DENIAL**

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant denies each and every allegation contained in the Petition and any amendment or supplement thereto, and demands strict proof thereof in accordance with Texas law. With respect to any claim by Plaintiff for punitive damages, Defendant demands strict proof thereof by clear and convincing evidence. Defendant denies that, among other things, any items of special damage have occurred.

**II.  
AFFIRMATIVE AND OTHER DEFENSES**

Without assuming any burden of proof that would otherwise rest with Plaintiff, Defendant asserts the following defenses, including affirmative defenses, as follows:

1. Plaintiff has failed to state a claim upon which relief may be granted.
2. Plaintiff’s alleged losses and damages, if any, are the result of, and directly related to, Plaintiff’s own conduct, actions, or failure to act, and not to Defendant’s conduct.

3. Plaintiff's claims, in whole or in part, are barred by consent.
4. Without conceding that Plaintiff has suffered any damages as a result of any alleged wrongdoing by Defendant, Plaintiff has failed to mitigate or minimize the alleged damages and is therefore barred, in whole or in part, from the recovery of damages.
5. Plaintiff is not entitled to injunctive or declaratory relief because Plaintiff has failed to state a cause of action for declaratory or injunctive relief and has failed to adequately plead the elements of these claims.
6. Plaintiff is not entitled to injunctive relief because Plaintiff cannot establish a risk of imminent, irreparable harm.
7. Plaintiff is not entitled to injunctive relief because Plaintiff cannot establish that Plaintiff has no other adequate remedy at law.
8. Plaintiff is not entitled to injunctive or declaratory relief because Plaintiff cannot establish a clear right to the requested relief.
9. Plaintiff is not entitled to injunctive relief because Plaintiff cannot establish that an injunction will favor public interest.
10. Plaintiff is not entitled to injunctive relief because the requested injunctive relief is unconstitutional.
11. Plaintiff is not entitled to injunctive relief because the requested injunctive relief is impermissibly vague.
12. To the extent punitive damages are claimed, Defendant asserts there is no basis, and in any event, insufficient factual predicate, for a claim for punitive damages.
13. Plaintiff's punitive damage claim is subject to the limitations imposed by state law.

14. Plaintiff's request for punitive damages is unconstitutional, arbitrary, unreasonable, excessive, and violates Defendant's rights under the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution, and Article 1, Section 13 of the Texas Constitution, unless limited in accordance with Texas law.

15. One or more of Plaintiff's claims, including, but not limited to, Plaintiff's claim for injunctive relief, is barred, in whole or in part, by doctrines of equity including, but not limited to, waiver, estoppel, or unclean hands, and/or Plaintiff's lawsuit, in whole or in part, is brought in order to harass, embarrass, and/or annoy Defendant.

Defendant hereby specifically reserves the right to file and assert any and all additional affirmative or other defenses.

### **III. PRAYER**

WHEREFORE, Defendant prays for judgment in his favor and against Plaintiff, as follows:

A. That the Court deny Plaintiff's request for injunctive relief, including, but not limited to, Plaintiff's request for a permanent injunction;

B. That Plaintiff's action be dismissed;

C. That Plaintiff take nothing by this suit;

D. That Defendant recover all costs, as well as reasonable attorneys' fees to which he may be entitled, both at equity and at law; and

E. That Defendant recover all such other and further relief to which he may be entitled, both at equity and at law.

Respectfully submitted,

/s/ John B. Brown

---

John B. Brown

Texas State Bar No. 00793412

[john.brown@ogletreedeakins.com](mailto:john.brown@ogletreedeakins.com)

Jamie E. Brod

Texas State Bar No. 24087211

[jamie.brod@ogletreedeakins.com](mailto:jamie.brod@ogletreedeakins.com)

**OGLETREE, DEAKINS, NASH, SMOAK &  
STEWART, P.C.**

Preston Commons, Suite 500

8117 Preston Road

Dallas, Texas 75225

Telephone: 214-987-3800

Facsimile: 214-987-3926

And

Michael A. McCabe

Texas State Bar No. 24007628

[mmcabe@munckwilson.com](mailto:mmcabe@munckwilson.com)

Shain A. Khoshbin

Texas State Bar No. 11375975

[skhoshbin@munckwilson.com](mailto:skhoshbin@munckwilson.com)

Virginia E. Milton

Texas State Bar No. 24079338

[vmilton@munckwilson.com](mailto:vmilton@munckwilson.com)

**MUNCK WILSON MANDALA, LLP**

600 Banner Place Tower

12770 Coit Road

Dallas, Texas 75251

(972) 628-3600

(972) 628-3616 (*facsimile*)

**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that on August 8, 2016, I electronically filed the foregoing with the Clerk of the Court using the electronic filing system, which will send notification of such filing to Plaintiff's counsel:

Luis P. Bartolomei  
THE BARTOLOMEI FIRM  
3710 Rawlins Street, Suite 1420  
Dallas, Texas 75219  
[luis@thebartolomeifirm.com](mailto:luis@thebartolomeifirm.com)

*/s/ John B. Brown*  
\_\_\_\_\_  
John B. Brown

25737751.1