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13 **UNITED STATES DISTRICT COURT**
14 **DISTRICT OF ARIZONA**

15 Jennifer Dale, on behalf of herself and
16 all others similarly situated,

17 Plaintiff,

18 v.

19 Travelers Property Casualty Insurance
20 Company,

21 Defendant.

22

Cameron Bode, a single man.

23 Plaintiff,

24 v.

25 Travelers Property Casualty Insurance
26 Company,

27 Defendant.
28

Case Nos. 2:22-cv-01659-PHX-SPL
2: 22-cv-01847-PHX-SPL

**DEFENDANT’S ANSWER TO
CONSOLIDATED COMPLAINT**

1 Defendant Travelers Property Casualty Insurance Company (“Defendant”) hereby
2 answers Plaintiffs’ Consolidated Complaint. Defendant denies all allegations not
3 specifically admitted herein. The paragraph numbers used herein correspond to those in
4 Plaintiffs’ Consolidated Complaint.

5 **I. INTRODUCTION**

6 1. Defendant states that the Arizona law referenced in Paragraph 1 speaks for
7 itself as to its contents, and denies any allegations of Paragraph 1 inconsistent therewith.
8 Defendant denies the allegations of the last sentence of Paragraph 1 of the Complaint.

9 2. Defendant states that the Arizona law referenced in Paragraph 2 speaks for
10 itself as to its contents, and denies any allegations of Paragraph 2 inconsistent therewith.

11 3. Defendant states that the Arizona law referenced in Paragraph 3 speaks for
12 itself as to its contents, and denies any allegations of Paragraph 3 inconsistent therewith.

13 4. Defendant denies the allegations of Paragraph 4.

14 5. Defendant admits that Plaintiffs purport to bring the sort of action described
15 in Paragraph 5, but denies that Plaintiffs are entitled to any of the relief they seek.

16 **II. PARTIES**

17 6. Defendant admits the allegations of Paragraph 6.

18 7. Defendant admits the allegations of Paragraph 7.

19 8. Defendant admits the allegations of Paragraph 8 as to state of incorporation,
20 but denies the allegations as to principal place of business.

21 **III. JURISDICTION AND VENUE**

22 9. Defendant admits the allegations of Paragraph 9, except denies the
23 allegations as to its principal place of business being in New York.

24 10. Defendant admits the allegations of Paragraph 10.

25 11. Defendants admits that Plaintiffs purport to characterize their allegations as
26 they have described in Paragraph 11, but denies that Plaintiffs’ characterization is correct
27 and denies all remaining allegations of Paragraph 11.

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1 **IV. GENERAL ALLEGATIONS AS TO ARIZONA LAW**

2 12. Defendant states that the Arizona law referenced in Paragraph 12 speaks for
3 itself as to its contents, and denies any allegations of Paragraph 12 inconsistent therewith.

4 13. Defendant states that the Arizona law referenced in Paragraph 13 speaks for
5 itself as to its contents, and denies any allegations of Paragraph 13 inconsistent therewith.

6 14. Defendant states that the Arizona law referenced in Paragraph 14 speaks for
7 itself as to its contents, and denies any allegations of Paragraph 14 inconsistent therewith.

8 15. Defendant states that the Arizona law referenced in Paragraph 15 speaks for
9 itself as to its contents, and denies any allegations of Paragraph 15 inconsistent therewith.

10 16. Defendant states that the Arizona law referenced in Paragraph 16 speaks for
11 itself as to its contents, and denies any allegations of Paragraph 16 inconsistent therewith.

12 17. Defendant states that the Arizona law referenced in Paragraph 17 speaks for
13 itself as to its contents, and denies any allegations of Paragraph 17 inconsistent therewith.

14 18. Defendant states that the Arizona law referenced in Paragraph 18 speaks for
15 itself as to its contents, and denies any allegations of Paragraph 18 inconsistent therewith.

16 19. Defendant states that the Arizona law referenced in Paragraph 19 speaks for
17 itself as to its contents, and denies any allegations of Paragraph 19 inconsistent therewith.

18 **V. ALLEGATIONS RELATED TO DALE**

19 20. Defendant admits the allegations of Paragraph 20.

20 21. Defendant admits the allegations of Paragraph 21.

21 22. Defendant admits the allegations of Paragraph 22.

22 23. Defendant admits the allegations of Paragraph 23, except is without
23 sufficient information to admit or deny the allegations regarding the severity of Plaintiff's
24 injuries, and therefore denies the same.

25 24. Defendant is without sufficient information to admit or deny the allegations
26 of Paragraph 24, and therefore denies the same.

1 25. Defendant admits the allegations of Paragraph 25, except that it is without
2 sufficient information to admit or deny the allegations regarding the severity of Plaintiff's
3 injuries, and therefore denies the same.

4 26. Defendant is without sufficient information to admit or deny the allegations
5 of Paragraph 26, and therefore denies the same.

6 27. Defendant admits the allegations of the first sentence of Paragraph 27.
7 Defendant is without sufficient information to admit or deny the allegations of the second
8 sentence of Paragraph 27, and therefore denies the same.

9 28. Defendant admits the allegations of Paragraph 28.

10 29. Defendant admits the allegations of Paragraph 29.

11 30. Defendant states that the Arizona law referenced in Paragraph 30 speaks for
12 itself as to its contents, and denies any allegations of Paragraph 30 inconsistent therewith.

13 31. Defendant states that the policy documents referenced in Paragraph 31 speak
14 for themselves as to their contents, and denies any allegations of Paragraph 31 inconsistent
15 therewith, and is without sufficient information to admit or deny the remaining allegations
16 of Paragraph 31, and therefore denies the same.

17 32. Defendant is without sufficient information to admit or deny the allegations
18 of Paragraph 32, and therefore denies the same.

19 33. Defendant states that the policy documents referenced in Paragraph 33 speak
20 for themselves as to their contents, and denies any allegations of Paragraph 33 inconsistent
21 therewith.

22 34. Defendant states that the correspondence referenced in Paragraph 34 speaks
23 for itself as to its contents, and denies any allegations of Paragraph 34 inconsistent
24 therewith.

25 35. Defendant states that the correspondence referenced in Paragraph 35 speaks
26 for itself as to its contents, and denies any allegations of Paragraph 35 inconsistent
27 therewith.

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1 36. Defendant states that the correspondence referenced in Paragraph 36 speaks
2 for itself as to its contents, and denies any allegations of Paragraph 36 inconsistent
3 therewith.

4 37. Defendant states that the correspondence referenced in Paragraph 37 speaks
5 for itself as to its contents, and denies any allegations of Paragraph 37 inconsistent
6 therewith.

7 **VI. ALLEGATIONS RELATED TO BODE**

8 38. Defendant admits the allegations of Paragraph 38.

9 39. Defendant is without sufficient information to admit or deny the allegations
10 of Paragraph 39, and therefore denies the same.

11 40. Defendant is without sufficient information to admit or deny the allegations
12 of Paragraph 40, and therefore denies the same.

13 41. Defendant admits the allegations of Paragraph 41.

14 42. Defendant admits the allegations of the Paragraph 42, except states that the
15 Arizona law referenced in Paragraph 42 speaks for itself as to its contents, and denies any
16 allegations of Paragraph 42 inconsistent therewith.

17 43. Defendant admits the allegations of Paragraph 43, except states that the
18 policy documents referenced in Paragraph 43 speaks for themselves as to their contents,
19 and denies any allegations of Paragraph 43 inconsistent therewith.

20 44. Defendant states that the policy documents referenced in Paragraph 44 speak
21 for themselves as to their contents, and denies any allegations of Paragraph 44 inconsistent
22 therewith, and is without sufficient information to admit or deny the remaining allegations
23 of Paragraph 44, and therefore denies the same.

24 45. Defendant states that the policy documents referenced in Paragraph 45 speak
25 for themselves as to their contents, and denies any allegations of Paragraph 45 inconsistent
26 therewith.

27 46. Defendant is without knowledge sufficient to admit or deny the allegations
28 of the first two sentences of Paragraph 46, and therefore denies the same. Defendant states

1 that the policy documents referenced in Paragraph 46 speak for themselves as to their
2 contents, and denies any allegations of Paragraph 46 inconsistent therewith.

3 47. Defendant states that the communication referenced in Paragraph 47 speaks
4 for itself as to its contents, and denies any allegations of Paragraph 47 inconsistent
5 therewith, and denies all the remaining allegations of Paragraph 47.

6 48. Defendant denies the allegations of Paragraph 48.

7 49. Defendant denies the allegations of Paragraph 49.

8 50. Defendant states that the communications referenced in Paragraph 50 speak
9 for themselves as to their contents, and denies any allegations of Paragraph 50 inconsistent
10 therewith.

11 **VII. ALLEGATIONS RELATED TO TRAVELERS**

12 51. Defendant denies the allegations of Paragraph 51.

13 52. Defendant states that the policy documents referenced in Paragraph 52 speak
14 for themselves as to their contents, and denies any allegations of Paragraph 52 inconsistent
15 therewith.

16 53. Defendant states that the policy documents referenced in Paragraph 53 speak
17 for themselves as to their contents, and denies any allegations of Paragraph 53 inconsistent
18 therewith.

19 54. Defendant states that the policy documents referenced in Paragraph 54 speak
20 for themselves as to their contents, and denies any allegations of Paragraph 54 inconsistent
21 therewith.

22 55. Defendant denies the allegations of Paragraph 55.

23 56. Defendant states that the policy documents referenced in Paragraph 56 speak
24 for themselves as to their contents, and denies any allegations of Paragraph 56 inconsistent
25 therewith.

26 57. Defendant states that the policy documents referenced in Paragraph 57 speak
27 for themselves as to their contents, and denies any allegations of Paragraph 57 inconsistent
28 therewith.

1 58. Defendant states that the policy documents and the Arizona law referenced
2 in Paragraph 58 speak for themselves as to their contents, and denies any allegations of
3 Paragraph 58 inconsistent therewith.

4 59. Defendant denies the allegations of Paragraph 59.

5 60. Defendant denies the allegations of Paragraph 60.

6 61. Defendant states that the Arizona law referenced in Paragraph 61 speaks for
7 itself as to its contents, and denies any allegations of Paragraph 61 inconsistent therewith.

8 62. Defendant denies the allegations of Paragraph 62.

9 63. Defendant denies the allegations of Paragraph 63.

10 64. Defendant denies the allegations of Paragraph 64.

11 65. Defendant denies the allegations of Paragraph 65.

12 66. Defendant admits the allegations of Paragraph 66.

13 67. Defendant denies the allegations of Paragraph 67.

14 68. Defendant states that the documents referenced in Paragraph 68 speak for
15 themselves as to their contents, and denies any allegations of Paragraph 68 inconsistent
16 therewith.

17 69. Defendant states that the documents referenced in Paragraph 69 speak for
18 themselves as to their contents, and denies any allegations of Paragraph 69 inconsistent
19 therewith

20 70. Defendant denies the allegations of Paragraph 70.

21 71. Defendant denies the allegations of Paragraph 71.

22 72. Defendant admits it has paid stacked UM or UIM limits in appropriate
23 circumstances, but denies the remaining allegations of Paragraph 72.

24 73. Defendant denies the allegations of Paragraph 73.

25 74. Defendant denies the allegations of Paragraph 74.

26 75. Defendant denies the allegations of Paragraph 75.

27 76. Defendant denies the allegations of Paragraph 76.

28 77. Defendant denies the allegations of Paragraph 77.

1 78. Defendant denies the allegations of Paragraph 78.

2 79. Defendant denies the allegations of Paragraph 79.

3 80. Defendant denies the allegations of Paragraph 80.

4 81. Defendant denies the allegations of Paragraph 81.

5 82. Defendant denies the allegations of Paragraph 82.

6 83. Defendant denies the allegations of Paragraph 83.

7 **VIII. CLASS ACTION ALLEGATIONS**

8 84. Defendant admits that Plaintiff purports to bring this case on behalf of a
9 class, but denies all remaining allegations of Paragraph 84.

10 85. Defendant admits that Plaintiffs purport to bring this case on behalf of a
11 class as defined in Paragraph 85, but denies all allegations of Paragraph 85 that a class
12 action is appropriate here or that a class may be certified in this matter.

13 86. Defendant denies the allegations of Paragraph 86.

14 87. Defendant denies the allegations of Paragraph 87, and all of its subparts.

15 88. Defendant denies the allegations of Paragraph 88.

16 89. Defendant denies the allegations of Paragraph 89.

17 90. Defendant denies the allegations of Paragraph 90.

18 91. Defendant denies the allegations of Paragraph 91.

19 92. Defendant denies the allegations of Paragraph 92.

20 93. Defendant denies the allegations of Paragraph 93.

21 94. Defendant denies the allegations of Paragraph 94.

22 95. Defendant denies the allegations of Paragraph 95.

23 **FIRST CLAIM FOR RELIEF**
24 **(DECLARATORY JUDGMENT)**

25 96. Defendant repeats and incorporates herein all of its responses to the
26 foregoing paragraphs as its response to Paragraph 96.

27 97. Defendant denies the allegations of Paragraph 97.

28 98. Defendant denies the allegations of Paragraph 98.

1 99. Defendant denies the allegations of Paragraph 99.

2 **SECOND CLAIM FOR RELIEF**
3 **(BREACH OF CONTRACT)**

4 100. Defendant repeats and incorporates herein all of its responses to the
5 foregoing paragraphs as its response to Paragraph 100.

6 101. Defendant denies the allegations of Paragraph 101.

7 102. Defendant denies the allegations of Paragraph 102.

8 103. Defendant denies the allegations of Paragraph 103.

9 104. Defendant denies the allegations of Paragraph 104.

10 **THIRD CLAIM FOR RELIEF**
11 **(BAD FAITH AS TO THE CLASS)**

12 105. Defendant repeats and incorporates herein all of the responses to the
13 foregoing paragraphs as its response to Paragraph 105.

14 106. Defendant states that the Arizona law referenced in Paragraph 106 speaks
15 for itself as to its contents, and denies any allegations of Paragraph 106 inconsistent
16 therewith.

17 107. Defendant states that the Arizona law referenced in Paragraph 107 speaks
18 for itself as to its contents, and denies any allegations of Paragraph 107 inconsistent
19 therewith.

20 108. Defendant states that the Arizona law referenced in Paragraph 108 speaks
21 for itself as to its contents, and denies any allegations of Paragraph 108 inconsistent
22 therewith.

23 109. Defendant denies the allegations of Paragraph 109.

24 110. Defendant denies the allegations of Paragraph 110.

25 111. Defendant denies the allegations of Paragraph 111.

26 112. Defendant denies the allegations of Paragraph 112.

27 113. Defendant denies the allegations of Paragraph 113.

28 114. Defendant denies the allegations of Paragraph 114.

1 5. Plaintiffs' claim for punitive damages is barred on the ground that Defendant
2 did not act with the necessary "evil mind" required to recover such damages.

3 6. The Complaint is barred, in whole or in part, to the extent that the alleged
4 damages suffered by Plaintiffs, if any, were caused by Plaintiffs' own acts or omissions.
5 Alternatively, Plaintiffs' claims are barred for failure to mitigate damages.

6 7. The Complaint is barred to the extent it would unjustly enrich Plaintiffs, or
7 give rise to a windfall of coverage which the insured could not have reasonably anticipated
8 and for which the insured did not pay a premium.

9 8. To the extent Plaintiffs seek punitive damages, they improperly seek
10 punitive damages in violation of the Due Process Clause of the Fourteenth Amendment to
11 the Constitution of the United States in one or more of the following respects; (1) the
12 punitive damages claimed are or may be vastly disproportionate to any actual damages;
13 (2) the award of punitive damages would constitute an arbitrary and capricious taking of
14 Defendant's property, a taking which is unjustified by any rational state purpose; and (3)
15 the award of punitive damages would violate Defendant's substantive due process rights.

16 9. The imposition of punitive damages against the Defendant in an amount
17 exceeding any actual and potential harm by an excessive and/or unconstitutional ratio
18 violates Defendant's substantive due process rights as guaranteed by the United States
19 Constitution.

20 10. Defendant denies that any of the prerequisites to a class action as set forth
21 in the applicable class action rules have been pled or met herein, including the
22 requirements that common questions predominate over individual issues, that Plaintiffs'
23 claims are typical of the class or that they are adequate class representatives, and that a
24 class action is a superior method of adjudicating this matter.

25 11. Defendant reserves the right to challenge the standing of each putative class
26 member.

27 12. Some or all of the claims in this matter may be barred by the applicable
28 statutes of limitations, including but not limited to under the statute of limitations analysis

1 provided in *Creasman v. Farmers Cas. Ins. Co.*, No. CV-22-01820-PHX-DJH, 2023 WL
2 4533964 (D. Ariz. July 13, 2023).

3 13. Some or all of the claims in this matter are or may be barred by the doctrine
4 of laches and/or time limitations on suit in the applicable insurance policies.

5 14. Any alleged benefits available to Plaintiffs and the putative class are
6 expressly conditioned and limited by the terms, conditions, limits and provisions of the
7 insurance policies at issue.

8 15. Some or all of the claims in this matter may be barred by the execution of
9 releases, including by Plaintiffs.

10 16. Some or all of the claims in this matter may be barred by the doctrine of
11 unclean hands.

12 17. Some or all of the claims in this matter may be barred by the doctrines of
13 waiver and estoppel.

14 WHEREFORE, Defendant respectfully requests that judgment be granted in its
15 favor, including its costs of suit, attorneys' fees pursuant to A.R.S. Section 341.01(A) and
16 any other applicable statute or rule, and additionally requests such other and further relief
17 as the Court deems just and proper.

18 Dated this 19th day of January 2024.

19 Respectfully submitted,

20 **DICKINSON WRIGHT PLLC**

21 By: /s/ P. Bruce Converse

22 P. Bruce Converse

23 Timothy M. Strong

24 *Attorneys for Defendant*

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of January 2024, I electronically filed the foregoing using the CM/ECF system, which served all registered CM/ECF participants.

/s/ Terri Finnell