

Cause No. 2022-78612

HERMELINDO VILLALOBOS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
PNC BANK, N.A. its assigns and/or	§	
successors in interest	§	
Defendant.	§	270TH JUDICIAL DISTRICT

DEFENDANT’S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant PNC Bank, N.A. (“PNC” or “Defendant”) and files its Original Answer to *Plaintiff’s Original Petition and Emergency Application for Temporary Restraining Orders and Damages* (the “Petition”) filed by Hermelindo Villalobos (“Plaintiff”), and respectfully shows the Court as follows:

I. GENERAL DENIAL

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, PNC generally denies each and every allegation contained within Plaintiff’s Petition and any amendment thereto, and demands strict proof thereof as required by the Constitution and the laws of the State of Texas. PNC further reserves the right to plead further and in greater particularity as the case progresses.

II. AFFIRMATIVE DEFENSES

In addition to, alternatively, and without waiving the foregoing, PNC asserts that:

1. Plaintiff’s claims fail, in whole or in part, because Plaintiff fails to state a claim upon which relief can be granted; and therefore, each of Plaintiff’s claims should be dismissed.
2. Plaintiff’s claims fail, in whole or in part, because Plaintiff fails to plead sufficient facts to support a right to relief, if any.

3. Plaintiff's claims fail, in whole or in part, because Plaintiff failed to mitigate his damages, if any, which are strictly denied by PNC.

4. Plaintiff's claims fail, in whole or in part, because Plaintiff failed to allege and prove all conditions precedent to recovery.

5. PNC claims all offsets and credits available to it.

6. Plaintiff's claims fail, in whole or in part, because PNC complied with all applicable statute(s) and provision(s) of law.

7. Plaintiff's claims fail, in whole or in part, because PNC complied with all relevant contract(s) and agreement(s).

8. Plaintiff's claims fail, in whole or in part, because PNC's acts and/or omissions were not the cause of Plaintiff's damages, if any. Rather, Plaintiff's damages, if any, were proximately caused by the acts, omissions, negligence, or breaches of other persons and/or entities including Plaintiff himself, and the acts, omissions, negligence, or breaches were intervening and superseding causes of Plaintiff's damages, if any.

III. RESERVATION OF RIGHTS

As authorized by the Texas Rules of Civil Procedure, PNC reserves the right to amend this pleading and assert additional defenses before the trial of this cause on the merits.

PRAYER

WHEREFORE, PNC prays that Plaintiff take nothing by his claims against it. PNC further prays that the Court grants PNC such other and further relief, at law or in equity, to which it may be entitled.

Respectfully Submitted,

**BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP**

/s/ Shawnika L. Brooks

Shawnika L. Brooks f/k/a Shawnika L. Harris

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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

On December 26, 2022, I hereby certify that a copy of the foregoing instrument was delivered to the following pursuant to the Texas Rules of Civil Procedure:

Via E-service: jamesp@thepopelawfirm.com

The Pope Law Firm

James Q. Pope

6161 Savoy Drive, Suite 1125

Houston, Texas 77036

Attorney for Plaintiff

/s/ Shawnika L. Brooks

Shawnika L. Brooks f/k/a Shawnika L. Harris

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

LaDonna Butler on behalf of Shawnika Brooks
Bar No. 24106058
ladonnab@bdfgroup.com
Envelope ID: 71280108
Status as of 12/27/2022 8:04 AM CST

Case Contacts

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