

CAUSE NO. 2021-28763

MICHAEL BOLSINGER

Plaintiff,

v.

HOUSTON ASTROS, LLC,

Defendant.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

61st JUDICIAL DISTRICT

DEFENDANT HOUSTON ASTROS, LLC'S ORIGINAL ANSWER

Defendant Houston Astros, LLC (“Astros” or “Defendant”) file this Original Answer to Plaintiff Michael Bolsinger’s (“Bolsinger”) Original Petition and Special Exceptions, and would respectfully show the Court as follows:

I. GENERAL DENIAL

1. The Defendant asserts a general denial under Rule 92 of the Texas Rules of Civil Procedure. The Defendant denies each and every allegation made against it by Bolsinger, and demands strict proof of all allegations as required by Texas law.

II. AFFIRMATIVE DEFENSES

2. Without assuming any burdens other than those imposed by applicable Texas law, the Defendant sets forth the following affirmative defenses and other matters in defense or rebuttal, which are asserted in combination or in the alternative, subject to and without waiving its general denial. The Defendant reserves the right to assert any additional defenses that may be available in defense or rebuttal to Bolsinger’s allegations.

- a. Bolsinger has failed to allege a claim that has a basis in law or fact.
- b. Pursuant to Chapter 33 of the Texas Civil Practice and Remedies Code, Bolsinger’s recovery for alleged lost earnings is barred—or alternatively, limited by—his own proportionate responsibility.
- c. Bolsinger’s claims are barred, in whole or in part, due to lack of causation between any alleged wrongful acts and alleged damages.

- d. The Defendant further reserves the right to amend, and/or supplement its Affirmative and Other Defenses to Bolsinger's Petition as and when additional facts or information may become known, and which may suggest that such amendment or supplementation may be warranted.

III. SPECIAL EXCEPTIONS

3. The Defendant specially excepts to paragraphs 43 and 45 of Bolsinger's Original Petition regarding the relief sought, because those paragraphs fail to specify the maximum damages sought. The Defendant asks the Court to require Bolsinger to specify the maximum amount that he claims. *See* Tex. R. Civ. P. 47.

IV. INITIAL DISCLOSURES

4. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, the Defendant requests that Bolsinger disclose, within 30 days of service of this Answer, the information and materials described in Rule 194.2.

V. CONCLUSION AND PRAYER

Based on the above, the Defendant respectfully requests the Court to grant it relief as follows:

- a. That Bolsinger take nothing on his claims alleged in his Petition
- b. That judgment on Bolsinger's claims be entered in favor of the Defendant and against Bolsinger
- c. That the Defendant be awarded costs of court and any reasonable attorneys' fees to which it may be entitled; and
- d. That the Defendant be awarded any such further relief, in law or equity, that the Court may deem proper.

The Defendant further requests the Court to set its special exceptions for hearing and after hearing, sustain the the special exception and order Bolsinger to replead and cure his pleading defects, and if Bolsinger does not cure the defects, strike the defective portions of Bolsinger's pleading.

Dated: June 4, 2021

Respectfully submitted,

VINSON & ELKINS LLP

/s/ Hilary Preston

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***Counsel for Defendant Houston Astros,
LLC***

CERTIFICATE OF SERVICE

I certify that, on June 4, 2021, a true and correct copy of the foregoing document was served in accordance with the Texas Rules of Civil Procedure on all parties of record.

/s/James L. Leader
James L. Leader