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Attorneys for Defendants

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Jesus Caballero,
Plaintiff,

v.

Economy Preferred Insurance Company,
an Illinois corporation; Farmers Group
Property and Casualty Insurance
Company f/k/a Metropolitan Group
Property and Casualty Insurance
Company, a Rhode Island corporation,
Defendants.

Case No. 2:22-cv-02023-PHX-MTL

**FARMERS GROUP PROPERTY AND
CASUALTY INSURANCE
COMPANY’S ANSWER**

Defendant Farmers Group Property and Casualty Insurance Company

(“Farmers”) answers Plaintiff’s First Amended Complaint (“FAC”) (Doc. 1-3 at ECF 4-36), as follows:¹

1. Farmers denies the implication in this paragraph that Plaintiff was named as an insured under an Economy insurance policy. Farmers lacks sufficient information to admit or deny whether Plaintiff falls within the definition of an insured under any Economy policy that was in force during the relevant period.

2. Admit.

3. Admit.

¹ The paragraph numbers below correspond to the paragraph numbers in the FAC.

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- 1 4. Admit.
- 2 3. This paragraph does not make factual allegations for which a response is
- 3 required. To the extent it does, they are denied.²
- 4 4. This paragraph does not make factual allegations for which a response is
- 5 required. To the extent it does, they are denied.
- 6 5. This paragraph does not make factual allegations for which a response is
- 7 required. To the extent it does, they are denied.
- 8 6. This paragraph states legal conclusions to which a response is not required.
- 9 To the extent this paragraph makes factual allegations, they are denied.
- 10 7. Farmers lacks sufficient information to admit or deny the allegations in
- 11 this paragraph and therefore denies them.
- 12 8. Farmers lacks sufficient information to admit or deny the allegations in
- 13 this paragraph and therefore denies them.
- 14 9. Farmers lacks sufficient information to admit or deny the allegations in
- 15 this paragraph and therefore denies them.
- 16 10. Farmers lacks sufficient information to admit or deny the allegations in
- 17 this paragraph and therefore denies them.
- 18 11. Farmers lacks sufficient information to admit or deny the allegations in
- 19 this paragraph and therefore denies them.
- 20 12. Farmers lacks sufficient information to admit or deny the allegations in
- 21 this paragraph and therefore denies them.
- 22 13. Farmers lacks sufficient information to admit or deny the allegations in
- 23 this paragraph and therefore denies them.
- 24 14. Farmers lacks sufficient information to admit or deny the allegations in
- 25 this paragraph and therefore denies them.
- 26 15. Farmers lacks sufficient information to admit or deny the allegations in

27 _____
28 ² The paragraph numbering in the FAC reverted to No. 3 for this paragraph. Farmers’
answer follows suit to maintain consistency.

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1 this paragraph and therefore denies them.

2 16. Farmers lacks sufficient information to admit or deny the allegations in
3 this paragraph and therefore denies them.

4 17. Farmers lacks sufficient information to admit or deny the allegations in
5 this paragraph and therefore denies them.

6 18. Farmers admits: (1) Jose Romero and Bonnita Dominguez were issued an
7 Economy insurance policy, No. 6222106621, that was effective from November 30,
8 2019, to November 30, 2020 (the “Economy Policy”); (2) the Economy Policy covered
9 the four motorcycles identified in this paragraph; and (3) the Economy Policy provided
10 Uninsured Motorist (“UM”) and Underinsured Motorist (“UIM”) coverage with \$15,000
11 per person and \$30,000 per collision limits. Farmers denies that the Economy Policy
12 provided UM/UIM coverage “on each of the vehicles.”

13 19. Farmers lacks sufficient information to admit or deny the allegations in
14 this paragraph and therefore denies them.

15 20. Farmers lacks sufficient information to admit or deny the allegations in
16 this paragraph and therefore denies them.

17 21. Farmers lacks sufficient information to admit or deny the allegations in
18 this paragraph and therefore denies them.

19 22. Farmers admits Romero and Dominguez paid Economy a premium for
20 UM/UIM coverage, but deny the premium entitled the insureds under the Policy to
21 separate UM/UIM coverage for each vehicle insured by the Policy.

22 23. Farmers admits Romero and Dominguez paid Economy a premium for
23 UM/UIM coverage, but deny the premium entitled the insureds under the Policy to
24 separate UM/UIM coverage for each vehicle insured by the Policy.

25 24. Farmers admits Romero and Dominguez paid Economy a premium for
26 UM/UIM coverage, but deny the premium entitled the insureds under the Policy to
27 separate UM/UIM coverage for each vehicle insured by the Policy.

28 25. Farmers admits Romero and Dominguez paid Economy a premium for

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1 UM/UIM coverage, but deny the premium entitled the insureds under the Policy to
2 separate UM/UIM coverage for each vehicle insured by the Policy.

3 26. Farmers lacks sufficient information to admit or deny the allegations in
4 this paragraph and therefore denies them.

5 27. Farmers lacks sufficient information to admit or deny the allegations in
6 this paragraph and therefore denies them.

7 28. Farmers admits Plaintiff submitted a claim against the Economy Policy for
8 UIM benefits in or about November 2020. The remainder of the paragraph states legal
9 conclusions to which a response is not required. To the extent it makes factual
10 allegations, they are denied.

11 29. Farmers admits that, in response to Plaintiff's claim against the Economy
12 Policy, it paid the per person UIM limits of \$15,000. Farmers denies the implication in
13 this paragraph that additional UIM coverage was available under other vehicles insured
14 by the Economy Policy.

15 30. Farmers admits it did not make any additional payments to Plaintiff under
16 the Economy Policy. Farmers denies the implication in this paragraph that additional
17 coverage was available to Plaintiff arising out of his claim.

18 31. Farmers admits no additional UIM coverage is available to Plaintiff under
19 the Economy Policy, but denies that it "disclaimed" such coverage to Plaintiff or that it
20 did so on the basis that "Stacked Underinsured Motorist Coverage" was not available.

21 32. Farmers admits this paragraph accurately quotes a portion of the "Limit of
22 Liability" language in the Arizona Underinsured Motorist Coverage in Endorsement
23 AE414AZ 0513 to the Economy Policy. Farmers denies that this paragraph quotes the
24 entire Limit of Liability provision or otherwise sets forth the parties full rights and
25 obligations under the Economy Policy with respect to limitations on liability.

26 33. This paragraph states legal conclusions to which a response is not required.
27 To the extent this paragraph makes factual allegations, they are denied.

28 34. This paragraph states legal conclusions to which a response is not required.

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1 To the extent this paragraph makes factual allegations, they are denied.

2 35. Farmers admits Economy did not provide separate written notice to
3 Plaintiff regarding his ability to select coverages within 30 days of his claim. Farmers
4 affirmatively alleges, however, that Economy complied with its obligations under A.R.S.
5 § 20-259.01(H).

6 36. This paragraph states legal conclusions to which a response is not required.
7 To the extent this paragraph makes factual allegations, they are denied.

8 37. Deny.

9 38. Deny.

10 39. Deny.

11 40. Deny.

12 41. Deny.

13 42. This paragraph states legal conclusions to which a response is not required.

14 To the extent this paragraph makes factual allegations, they are denied.

15 43. Farmers lacks sufficient information to admit or deny the allegations in
16 this paragraph and therefore denies them.

17 44. Farmers admits that the allegations in this paragraph represent Plaintiff's
18 contentions, but denies that the contentions are accurate.

19 45. Farmers admits that its position is that Plaintiff is not entitled to any
20 additional UIM coverage under the Economy Policy. Farmers denies the remaining
21 allegations in this paragraph.

22 46. Admit.

23 47. Deny.

24 48. Farmers lacks sufficient information to admit or deny the allegations in
25 this paragraph and therefore denies them.

26 49. Deny.

27 50. Deny.

28 51. Deny.

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1 52. This paragraph states legal conclusions to which a response is not required.

2 To the extent this paragraph makes factual allegations, they are denied.

3 53. Deny.

4 54. Deny.

5 55. Deny.

6 56. Deny.

7 57. Deny.

8 58. Deny.

9 59. Deny.

10 60. Deny.

11 61. Deny.

12 62. Deny.

13 63. Deny.

14 64. Deny.

15 65. Farmers admits: (1) Jose Romero and Bonnita Dominguez were issued an
16 Economy insurance policy, No. 6222106620, that was effective from November 30,
17 2019, to November 30, 2020 (the “Farmers Policy”); (2) the Farmers Policy covered the
18 four three vehicles identified in this paragraph; and (3) the Farmers Policy provided
19 Uninsured Motorist (“UM”) and Underinsured Motorist (“UIM”) coverage with \$15,000
20 per person and \$30,000 per collision limits. Farmers denies that the Farmers Policy
21 provided UM/UIM coverage “on each of the vehicles.”

22 66. Farmers lacks sufficient information to admit or deny the allegations in
23 this paragraph and therefore denies them.

24 67. Farmers lacks sufficient information to admit or deny the allegations in
25 this paragraph and therefore denies them.

26 68. Farmers lacks sufficient information to admit or deny the allegations in
27 this paragraph and therefore denies them.

28 69. Farmers admits Romero and Dominguez paid Farmers a premium for

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1 UM/UIIM coverage, but deny the premium entitled the insureds under the Policy to
2 separate UM/UIIM coverage for each vehicle insured by the Policy.

3 70. Farmers admits Romero and Dominguez paid Farmers a premium for
4 UM/UIIM coverage, but deny the premium entitled the insureds under the Policy to
5 separate UM/UIIM coverage for each vehicle insured by the Policy.

6 71. Farmers admits Romero and Dominguez paid Farmers a premium for
7 UM/UIIM coverage, but deny the premium entitled the insureds under the Policy to
8 separate UM/UIIM coverage for each vehicle insured by the Policy.

9 72. Farmers lacks sufficient information to admit or deny the allegations in
10 this paragraph and therefore denies them.

11 73. Farmers lacks sufficient information to admit or deny the allegations in
12 this paragraph and therefore denies them.

13 74. Farmers admits Plaintiff submitted a claim against the Economy Policy for
14 UIM benefits in or about November 2020. The remainder of the paragraph states legal
15 conclusions to which a response is not required. To the extent it makes factual
16 allegations, they are denied.

17 75. Deny.

18 76. Deny.

19 77. Deny.

20 78. Admit.

21 79. Farmers admits Plaintiff is not entitled to Underinsured Motorist Coverage
22 under the Farmers policy.

23 80. Farmers admits Plaintiff is not entitled to Stacked Underinsured Motorist
24 Coverage under the Farmers policy.

25 81. Farmers admits this paragraph accurately quotes a portion of the “Limit of
26 Liability” language in the Arizona Underinsured Motorist Coverage in Endorsement
27 AE414AZ 0513 to the Farmers Policy. Farmers denies that this paragraph quotes the
28 entire Limit of Liability provision or otherwise sets forth the parties full rights and

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1 obligations under the Farmers Policy with respect to limitations on liability.

2 82. This paragraph states legal conclusions to which a response is not required.
3 To the extent this paragraph makes factual allegations, they are denied.

4 83. This paragraph states legal conclusions to which a response is not required.
5 To the extent this paragraph makes factual allegations, they are denied.

6 84. Farmers admits it did not provide separate written notice to Plaintiff
7 regarding his ability to select coverages within 30 days of his claim. Farmers
8 affirmatively alleges, however, that it complied with its obligations under A.R.S. § 20-
9 259.01(H).

10 85. This paragraph states legal conclusions to which a response is not required.
11 To the extent this paragraph makes factual allegations, they are denied.

12 86. Deny.

13 87. Deny.

14 88. Farmers admits it has not paid Plaintiff Underinsured Motorist benefits
15 under the Farmers policy, but denies that it has any legal obligation to do so.

16 89. Deny.

17 90. Deny.

18 91. This paragraph states legal conclusions to which a response is not required.
19 To the extent this paragraph makes factual allegations, they are denied.

20 92. Farmers lacks sufficient information to admit or deny the allegations in
21 this paragraph and therefore denies them.

22 93. Farmers admits that the allegations in this paragraph represent Plaintiff's
23 contentions, but denies that the contentions are accurate.

24 94. Farmers admits that its position is that Plaintiff is not entitled to any UIM
25 coverage under the Farmers Policy. Farmers denies the remaining allegations in this
26 paragraph.

27 95. Admit.

28 96. Deny.

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- 1 97. Farmers lacks sufficient information to admit or deny the allegations in
- 2 this paragraph and therefore denies them.
- 3 98. Deny.
- 4 99. Deny.
- 5 100. Deny.
- 6 101. This paragraph states legal conclusions to which a response is not required.
- 7 To the extent this paragraph makes factual allegations, they are denied.
- 8 102. Deny.
- 9 103. Deny.
- 10 104. Deny.
- 11 105. Deny.
- 12 106. Deny.
- 13 107. Deny.
- 14 108. Deny.
- 15 109. Deny.
- 16 110. Deny.
- 17 111. Deny.
- 18 112. Deny.
- 19 113. Deny.
- 20 114. Farmers does not contest jurisdiction or venue in this Court.
- 21 115. Farmers does not contest jurisdiction or venue in this Court.
- 22 116. Farmers does not contest jurisdiction or venue in this Court.
- 23 117. Farmers does not contest jurisdiction or venue in this Court.
- 24 118. Farmers does not contest jurisdiction or venue in this Court.
- 25 119. This paragraph does not make factual allegations to which a response is
- 26 required. To the extent this paragraph makes factual allegations, they are denied.
- 27 120. This paragraph does not make factual allegations to which a response is
- 28 required. To the extent this paragraph makes factual allegations, they are denied.

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1 121. This paragraph does not make factual allegations to which a response is
2 required. To the extent this paragraph makes factual allegations, they are denied.
3 Farmers affirmatively alleges that the proposed class definition in this paragraph does
4 not state a valid class under Federal Rule 23 and is not subject to certification.

5 122. This paragraph does not make factual allegations to which a response is
6 required. To the extent this paragraph makes factual allegations, they are denied.
7 Farmers affirmatively alleges that the proposed class definition in this paragraph does
8 not state a valid class under Federal Rule 23 and is not subject to certification.

9 123. This paragraph does not make factual allegations to which a response is
10 required. To the extent this paragraph makes factual allegations, they are denied.
11 Farmers affirmatively alleges that the proposed class definition in this paragraph does
12 not state a valid class under Federal Rule 23 and is not subject to certification.

13 124. This paragraph does not make factual allegations to which a response is
14 required. To the extent this paragraph makes factual allegations, they are denied.
15 Farmers affirmatively alleges that the proposed class definition in this paragraph does
16 not state a valid class under Federal Rule 23 and is not subject to certification.

17 125. This paragraph states legal conclusions to which a response is not required.
18 To the extent this paragraph makes factual allegations, they are denied.

19 126. This paragraph states legal conclusions to which a response is not required.
20 To the extent this paragraph makes factual allegations, they are denied.

21 127. This paragraph states legal conclusions to which a response is not required.
22 To the extent this paragraph makes factual allegations, they are denied.

23 128. Deny.

24 129. Deny.

25 130. Deny.

26 131. Deny.

27 132. This paragraph states legal conclusions to which a response is not required.
28 To the extent this paragraph makes factual allegations, they are denied.

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- 1 133. Deny.
- 2 134. Deny.
- 3 135. Deny.
- 4 136. Deny.
- 5 137. Deny.
- 6 138. Deny.
- 7 139. This paragraph states legal conclusions to which a response is not required.
- 8 To the extent this paragraph makes factual allegations, they are denied.
- 9 140. Deny.
- 10 141. Deny.
- 11 142. This paragraph states legal conclusions to which a response is not required.
- 12 To the extent this paragraph makes factual allegations, they are denied.
- 13 143. This paragraph states legal conclusions to which a response is not required.
- 14 To the extent this paragraph makes factual allegations, they are denied.
- 15 144. Farmers lacks sufficient information to admit or deny the allegations in
- 16 this paragraph and therefore denies them.
- 17 145. Farmers lacks sufficient information to admit or deny the allegations in
- 18 this paragraph and therefore denies them.
- 19 146. Farmers lacks sufficient information to admit or deny the allegations in
- 20 this paragraph and therefore denies them.
- 21 147. Farmers lacks sufficient information to admit or deny the allegations in
- 22 this paragraph and therefore denies them.
- 23 148. Farmers lacks sufficient information to admit or deny the allegations in
- 24 this paragraph and therefore denies them.
- 25 149. This paragraph states legal conclusions to which a response is not required.
- 26 To the extent this paragraph makes factual allegations, they are denied.
- 27 150. This paragraph states legal conclusions to which a response is not required.
- 28 To the extent this paragraph makes factual allegations, they are denied.

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1 151. Deny.

2 152. Deny.

3 153. Deny.

4 154. Deny.

5 155. Deny.

6 156. Deny.

7 157. Farmers admits this paragraph states Plaintiff's requests, but denies that
8 the requested certification is proper.

9 158. This paragraph states legal conclusions to which a response is not required.
10 To the extent this paragraph makes factual allegations, they are denied.

11 159. This paragraph states legal conclusions to which a response is not required.
12 To the extent this paragraph makes factual allegations, they are denied.

13 160. Deny.

14 161. This paragraph states legal conclusions to which a response is not required.
15 To the extent this paragraph makes factual allegations, they are denied.

16 162. Farmers lacks sufficient information to admit or deny the allegations in
17 this paragraph and therefore denies them.

18 163. Deny.

19 164. This paragraph states legal conclusions to which a response is not required.
20 To the extent this paragraph makes factual allegations, they are denied.

21 165. Deny.

22 166. Deny.

23 167. Deny.

24 168. Farmers admits this paragraph states Plaintiff's requests, but denies that
25 the requested certification is proper.

26 **AFFIRMATIVE DEFENSES**

27 In addition, without assuming the burden of proof on any matters that would
28 otherwise rest with Plaintiff and/or the proposed class, and expressly denying any and all

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1 wrongdoing, Farmers asserts the following defenses:

2 1. Failure to State a Claim. The FAC does not specifically enumerate the
3 causes of action for which it is seeking relief. Notwithstanding the failure to clearly and
4 expressly identify the causes of action, the FAC fails to allege facts sufficient to state a
5 claim against Farmers on which relief can be granted.

6 2. Waiver. Plaintiff's claims are barred, in whole or in part, by the doctrine of
7 waiver.

8 3. Estoppel. Plaintiff's claims are barred, in whole or in part, by the doctrine
9 of estoppel.

10 4. Unjust Enrichment. If Plaintiff is granted the relief sought in the FAC, he
11 would reap a windfall and be unjustly enriched.

12 5. Failure to Mitigate Damages. Plaintiff and one or more of the putative
13 class members failed to mitigate his, her, or its damages.

14 6. Comparative Fault. Plaintiff's alleged damages, as well as the alleged
15 damages of the putative class members, were the results of acts or omissions of Plaintiff,
16 the putative class members, and/or non-parties.

17 7. Release. One or more of the putative class members' claims has been
18 released.

19 8. Accord and Satisfaction. Farmers has reached an accord and satisfaction
20 with one or more of the putative class members.

21 9. Statute of Limitations. One or more of the putative class members' claims
22 is barred by the applicable statute of limitations.

23 10. Rule 23. The above-captioned action may not be maintained as a class
24 action because Plaintiff cannot satisfy the requirements of Federal Rule of Civil
25 Procedure 23, including the requirements relating to numerosity, commonality,
26 typicality, and adequacy of representation.

27 11. Improper Classes. The two proposed classes are overbroad, impractical,
28 unworkable, and unmanageable.

12. Non-parties. Individualized allocation of fault to non-parties, including

1 attorneys who represented members of the class in resolving claims with Farmers, makes
2 class certification unworkable, unmanageable, and inappropriate.

3 13. General Denial. Farmers denies each and every allegation in the FAC not
4 specifically admitted herein.

5 **PRAYER FOR RELIEF**

6 THEREFORE, Farmers seeks judgment in its favor and against Plaintiff as
7 follows:

- 8 1. Dismissal of Plaintiff’s complaint and all causes of action, with prejudice
9 and with Plaintiff taking nothing;
- 10 2. Dismissal of the putative classes, with prejudice;
- 11 3. An award of attorneys’ fees and costs pursuant to A.R.S. §§ 12-341, 12-
12 341.01; and
- 13 4. Any further relief the Court deems just and reasonable.

14 DATED this 5th day of December, 2022.

15 PAPETTI SAMUELS WEISS MCKIRGAN LLP

16 /s/Jared Sutton
17 Jared Sutton
18 Jennifer Lee-Cota

19 *Attorneys for Defendants*
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CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2022, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF system for filing and transmittal of a Notice of Electronic Filing to the following individuals registered to this matter:

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