

CAUSE NO. D-1-GN-16-0051648

Pastor Jordan Brown	§	In the District Court
Plaintiff/Counter Defendant	§	
	§	
v.	§	Travis County, Texas
	§	
	§	
Whole Foods Rocky Mountain/Southwest LP	§	
Defendant/Counter-Plaintiff	§	250th District Court

**Defendants, Whole Foods Market Rocky Mountain/Southwest’s Original Answer with Affirmative Defenses, Counter-Claim, Sanctions, and Request for Disclosure**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Whole Foods Market Rocky Mountain/Southwest, LP., (Hereinafter referred to as “WFM”) incorrectly named as Whole Foods Market, Inc., (Hereinafter referred to as “WFMI”); Defendants/Counter-Plaintiff in the above-styled and numbered cause, and files this Original Answer and Special Exceptions and in support thereof would show the following:

Whole Foods Market, Inc. is not a proper party to this action. It is a holding company only and is not entering an appearance in this matter. Whole Foods Market Rocky Mountain/ Southwest LP is the proper entity operating the store in question in this matter. Whole Foods Market Rocky Mountain/Southwest LP voluntarily appears in this matter.

**General Denial**

1. Subject to all stipulations and admissions that may hereafter be made, Defendants assert a general denial as authorized by Rule 92 of the TEXAS RULES OF CIVIL PROCEDURE, and Defendant respectfully requests that the Plaintiff be required to prove

all charges and each and every material allegation against Defendant by a preponderance of the credible evidence as is required by the Constitution and laws of the State of Texas.

**Affirmative Defense**

2. Defendants state that any alleged damages Plaintiff seeks to recover are, in whole or in part the result of his own actions.

**Discovery**

3. Discovery in this case shall be conducted under level 3 pursuant to *Texas Rule of Civil Procedure 190 and 190.3*

**Counter-Claim  
Defamation**

4. WFM hereby asserts the following counter-claim. The Counter-Defendant, Jordan Brown, intentionally, knowingly, and falsely accused Whole Foods and its employees of writing the homosexual slur “FAG” on a custom made cake that he ordered from WFM’s Lamar Store, in Austin, TX. *See Plaintiff’s Original Petition on file with the court and incorporated herein by reference.* WFM and their employees did not put this slur on the cake. The cake was in the sole possession and control of Mr. Brown from the time it left WFM until he posted a video showing the slur and publishing his false statement to the general public. Mr. Brown acted with malice and he has damaged the reputation and business of WFM.

5. In this counter-claim WFM seeks damages in an amount not less than \$100,000 including exemplary damages. All relief sought is within the jurisdictional limits of the court. The counter-defendant is hereby served by and through his counsel of record, Austin Kaplan.

**Request for Sanctions**

6. WFM hereby asserts that counsel for the Plaintiff, Austin Kaplan, has signed the original petition in this matter which is groundless, brought in bad-faith and intended for the sole purpose of harassment. This pleading was also filed without any investigation into the facts of the truthfulness of the statement. WFM requests sanctions under CPRC Ch. 9 and 10; and TRCP 13. WFM requests that they be awarded costs, fees, and all other damages that it is entitled to as a matter of law.

**Request for Jury Trial**

7. Counter-Plaintiff, WFM, demands a jury trial in this matter.

**IX. Request for Disclosure**

8. Pursuant to Texas Rule of Civil Procedure 194 the Defendant requests that within 30 days of service the Plaintiff Inc. disclose all information under TRCP 194.2 (a)-(l).

**X. 193.7 Notice**

9. Defendant hereby gives notice pursuant to Rule 193.7 of the Texas Rules of Civil Procedure of their intent to use all documents, tangible items, recordings, and other things produced by the Plaintiff in trial of this matter

10. WHEREFORE, PREMISES CONSIDERED, Defendants, Whole Foods Market Rocky Mountain/Southwest, LP., incorrectly named as Whole Foods Market, Inc., prays that Plaintiff take nothing by his suit, and that all costs be taxed against Plaintiff, and that Defendant/Counter-Plaintiff be awarded damages, costs and fees, and for such other and further relief, to which Defendant/Counter-Plaintiff may be entitled.

Respectfully submitted,

Whole Foods Market Rocky Mountain  
Southwest LP

By: 

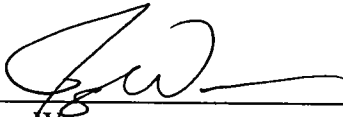
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**Attorneys for Whole Foods Market  
Rocky Mountain/Southwest LP**

**CERTIFICATE OF SERVICE**

I do hereby certify that a duplicate original or true and correct copy of the foregoing document to which this certificate is attached was served on Plaintiff's counsel of record in this case by hand-delivery, facsimile, mail, email and/or e-filing at the address listed below on the 19 day of April, 2016.

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