

1 PHILIP G. MAY, ESQ. (AZ Bar No. 009764)
 COLLINS, MAY, POTENZA, BARAN & GILLESPIE, P.C.
 2 Chase Tower, Suite 2200
 201 N. Central Avenue
 3 Phoenix, AZ 85004-0022
 Telephone: (602)252-1900
 4 Facsimile: (602)252-1114
 E-mail: pmay@cmpbglaw.com

5 Attorney for Third Party Defendant

6 **IN THE UNITED STATE DISTRICT COURT**
 7 **FOR THE DISTRICT OF ARIZONA**

8 VICTORIA SNIVELY, an adult individual,
 9
 Plaintiff,

10 vs.

11 MARLENE IMIRZIAN & ASSOCIATES,
 12 LLC, an Arizona Corporation; JOHN and
 JANE DOES I-X,
 13
 Defendants.

14 MARLENE IMIRZIAN & ASSOCIATES,
 15 LLC, an Arizona Corporation; JOHN and
JANE DOES I-X,
 16
 Counterclaimant,

17 vs.

18 VICTORIA SNIVELY, and KEITH BOWERS,
 19 husband and wife,
 20
 Counterdefendant,

21 MARLENE IMIRZIAN & ASSOCIATES,
 22 LLC, an Arizona Corporation; JOHN and
JANE DOES I-X,
 23
 Third Party Plaintiff,

24 vs.

25 PAY-TECH, INC., an Arizona corporation,
 26
 Third Party Defendant.

Case No.: 2:09-CV-02096-MHM

**ANSWER OF THIRD PARTY
 DEFEDANT**

(Assigned to the Hon. Mary H.
 Murguia)

1 Third-Party Defendant Pay-Tech (“Defendant Pay-Tech”), for its answer admits,
2 denies and alleges as follows.

3 1. In answer to paragraph 1, Defendant Pay-Tech Tech lacks information
4 sufficient to form a belief as to the truth of the allegations contained therein, and therefore
5 denies the same.

6 2. In answer to paragraph 2, Defendant Pay-Tech admits the allegations
7 contained therein.

8 3. In answer to paragraph 3, Defendant Pay-Tech admits the allegations
9 contained therein.

10 **ALLEGATIONS COMMON TO ALL COUNTS**

11 4. In answer to paragraph 4, Defendant Pay-Tech admits that Third Party
12 Plaintiff Marlene Imirzian & Associates, LLC (“MIAA”) performs architectural work in
13 Arizona. Defendant Pay-Tech lacks information sufficient to form a belief as to the truth
14 of the remaining allegations contained therein, and therefore denies the same.

15 5. In answer to paragraph 5, Defendant Pay-Tech denies that MIAA “leases”
16 most of its employees through Pay-Tech. Defendant Pay-Tech lacks information sufficient
17 to form a belief as to the truth of the remaining allegations contained therein, and therefore
18 denies the same.

19 6. In answer to paragraph 6, Defendant Pay-Tech denies the allegations
20 contained therein. Pat-Tech affirmatively alleges that the term “lease” is technically
21 incorrect.

22 7. In answer to paragraph 7, Defendant Pay-Tech admits that Snively’s
23 employment began in or about January, 2005. Defendant Pay-Tech lacks information
24 sufficient to form a belief as to the truth of the remaining allegations contained therein, and
25 therefore denies the same.

26 8. In answer to paragraph 8, Defendant Pay-Tech lacks information sufficient to
form a belief as to the truth of the allegations contained therein, and therefore denies the
same.

1 9. In answer to paragraph 9, Defendant Pay-Tech lacks information sufficient to
2 form a belief as to the truth of the allegations contained therein, and therefore denies the
3 same.

4 10. In answer to paragraph 10, Defendant Pay-Tech lacks information sufficient to
5 form a belief as to the truth of the allegations contained therein, and therefore denies the
6 same.

7 11. In answer to paragraph 11, Defendant Pay-Tech admits that MIAA informed
8 Pay-Tech in or about July, 2008 that Snively was planning to take maternity leave and that
9 it advised MIAA that MIAA was required to grant leave under FMLA and that Snively was
10 a qualified employee as that term is defined in FMLA. Defendant Pay-Tech lacks
11 information sufficient to form a belief as to the truth of the remaining allegations contained
12 therein, and therefore denies the same.

13 12. In answer to paragraph 12, Defendant Pay-Tech admits that MIAA asked
14 whether Snively's employment could be terminated if MIAA did not have enough work to
15 employ her. Defendant Pay-Tech also admits that it advised MIAA that under such
16 circumstances, MIAA could legally terminate an employee on FMLA leave. Defendant
17 Pay-Tech lacks information sufficient to form a belief as to the truth of the remaining
18 allegations contained therein, and therefore denies the same.

19 13. In answer to paragraph 13, Defendant Pay-Tech admits the allegations
20 contained therein.

21 14. In answer to paragraph 14, Defendant Pay-Tech lacks information sufficient to
22 form a belief as to the truth of the allegations contained therein, and therefore denies the
23 same.

24 15. In answer to paragraph 15, Defendant Pay-Tech lacks information sufficient to
25 form a belief as to the truth of the allegations contained therein, and therefore denies the
26 same.

 16. In answer to paragraph 16, Defendant Pay-Tech Tech lacks information
sufficient to form a belief as to the truth of the allegations contained therein, and therefore

1 denies the same. Defendant Pay-Tech affirmatively alleges that MIAA did terminate
2 Snively's employment.

3 17. In answer to paragraph 17, Defendant Pay-Tech admits the allegations
4 contained therein.

5 **COUNT ONE**
6 **(Negligence)**

7 18. Defendant Pay-Tech incorporates its answers set forth in paragraphs 1 – 17
8 above as fully set forth herein.

9 19. In answer to paragraph 19, Defendant Pay-Tech denies the allegations
10 contained therein.

11 20. In answer to paragraph 20, Defendant Pay-Tech lacks information sufficient to
12 form a belief as to the truth of the allegations contained therein, and therefore denies the
13 same.

14 21. In answer to paragraph 21, Defendant Pay-Tech denies the allegations
15 contained therein.

16 22. In answer to paragraph 22, Defendant Pay-Tech denies the allegations
17 contained therein.

18 **COUNT TWO**
19 **(Breach of Contract)**

20 23. Defendant Pay-Tech incorporates its answers set forth in paragraphs 1 – 22
21 above as fully set forth herein.

22 24. In answer to paragraph 24, Defendant Pay-Tech denies the allegations
23 contained therein. Defendant Pay-Tech affirmatively alleges that there is a binding written
24 contract, the terms of which speak for themselves.

25 25. In answer to paragraph 25, Defendant Pay-Tech denies the allegations
26 contained therein.

27 26. In answer to paragraph 26, Defendant Pay-Tech denies the allegations
28 contained therein.

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CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2009, I electronically transmitted the foregoing document(s) to the Clerk’s Office using the CM/ECF System for filing and a transmittal of a Notice of Electronic Filing to the following registrants:

Michelle Kunzman
Gillespie, Shields, & Associates, P.A.
7319 N. Sixteenth Street, Suite 100
Phoenix, AZ 85020-5262
Attorney for Plaintiffs

Gregory L. Miles
Davis Miles, PLLC
560 W. Brown Road, Third Floor
P.O. Box 15070
Mesa, AZ 85211-3070
Attorney for Defendant and Third Party Plaintiff

/s/ Renee Gonzales
2511-002