

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**STEPHANIE L. COLEMAN**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO.: 3:17-cv-00073-HTW-LRA**

**CITY OF JACKSON, MISSISSIPPI, ET AL.**

**DEFENDANTS**

**MUNICIPAL DEFENDANT’S AMENDED ANSWER  
AND AFFIRMATIVE DEFENSES TO PLAINTIFF’S COMPLAINT**

COMES NOW, Defendant, City of Jackson, Mississippi (referred to as “Municipal Defendant” or “City”), by and through its counsel of record, and respectfully submits this its Amended Answer and Affirmative Defenses to Plaintiff’s Complaint (“Complaint”), as follows:

**FIRST AFFIRMATIVE DEFENSE**

Plaintiff’s Complaint fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

Municipal Defendant pleads all applicable statutes of limitations.

**THIRD AFFIRMATIVE DEFENSE**

Punitive damages cannot be assessed against Municipal Defendant.

**FOURTH AFFIRMATIVE DEFENSE**

While denying that Plaintiff is entitled to punitive damages, Municipal Defendant affirmatively pleads that an award of punitive damages in an amount in excess of that proportion permitted by the laws of the United States would violate the Due Process protections of the U.S. Constitution. Further, Mississippi laws and procedures governing punitive damages are violative of the Sixth Amendment, Eighth Amendment, the Due Process Clause and Equal Protection Clause of the Fourteenth Amendment, and other provisions of the United States Constitution and Article III, Section 14 and other provisions of the Constitution of the State of Mississippi.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiff's alleged injuries were not caused by a policy or custom of Municipal Defendant. Thus, there can be no municipal liability with respect to Plaintiff's constitutional claims brought through 42 U.S.C. § 1983.

**SIXTH AFFIRMATIVE DEFENSE**

Municipal Defendant asserts the right to rely upon any after-acquired evidence.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff lacks standing under Title VII to pursue claims which are beyond the scope of her EEOC charge.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiff's Title VII claims should be dismissed to the extent she has failed to exhaust her administrative remedies.

**NINTH AFFIRMATIVE DEFENSE**

Municipal Defendant exercised reasonable care to prevent and promptly correct harassing behavior in the workplace and Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by Municipal Defendant or to otherwise avoid harm. Municipal Defendant relies on *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998), *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998) and related case law in support of this affirmative defense.

**TENTH AFFIRMATIVE DEFENSE**

Municipal Defendant affirmatively avers that Plaintiff cannot establish a *prima facie* case of discrimination, harassment, hostile work environment and/or retaliation under federal law.

**ELEVENTH AFFIRMATIVE DEFENSE**

Municipal Defendant affirmatively avers that all actions taken by it in connection with Plaintiff and/or her employment were taken for legitimate, non-discriminatory and non-retaliatory reasons.

**TWELFTH AFFIRMATIVE DEFENSE**

Municipal Defendant affirmatively denies Plaintiff sustained any damages as alleged in her Complaint.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Even if Plaintiff sustained damages, which is specifically denied, Municipal Defendant avers that Plaintiff failed to make reasonable efforts to mitigate her damages.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Municipal Defendant affirmatively avers that Plaintiff is not entitled to any compensatory damages, punitive damages, or costs related to this lawsuit.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Municipal Defendant affirmatively avers that Plaintiff's alleged damages under Title VII and 42 U.S.C. 2000e are limited by 42 U.S.C. §1981a.

**SIXTEENTH AFFIRMATIVE DEFENSE**

Municipal Defendant affirmatively asserts all other available defenses, limitations, and conditions afforded under Title VII.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

Municipal Defendant pleads all applicable provisions of the Mississippi Tort Claims Act, Miss. Code Ann. §11-46-1, et seq., including, but not limited to, all applicable statutes of limitations, all exemptions from liability, all jurisdictional prerequisites to suit and no right to a jury trial.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

Any alleged wrongdoing committed against Plaintiff by any City employee was committed outside the course of scope of the employee's employment.

**NINETEENTH AFFIRMATIVE DEFENSE**

Plaintiff did not engage in speech or activity protected under the First Amendment.

**TWENTIETH AFFIRMATIVE DEFENSE**

Plaintiff's employment termination was not motivated by speech or activity protected under the First Amendment.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

Even if Plaintiff can establish that First Amendment protected speech or activity was a motivating factor in her employment termination (which is denied), Municipal Defendant would have come to the same conclusion even in the absence of the protected conduct.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

Municipal Defendant reserves the right to amend this Answer to assert additional affirmative defenses that become applicable to Plaintiff's claims through further investigation and discovery.

Without waiving any of the defenses stated herein, Municipal Defendant responds to the allegations contained in the Complaint, paragraph by paragraph, as follows:

**ANSWER**

The first unnumbered paragraph of the Complaint beginning "This action is brought..." is introductory in nature and, therefore, does not require a response from Municipal Defendant. However, to the extent that this introductory, unnumbered paragraph seeks to impose liability on the City, Municipal Defendant would deny the same and demand strict proof thereof.

Municipal Defendant denies the allegations contained in the second unnumbered Paragraph of the Complaint beginning “This is also an action...” and demands strict proof thereof.

Municipal Defendant denies the allegations contained in the third unnumbered Paragraph of the Complaint beginning “COMES NOW the Plaintiff...” and demands strict proof thereof.

### **PARTIES**

1. Municipal Defendant lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 1 of the Complaint and, therefore, denies the same.

2. Municipal Defendant admits the allegations contained in Paragraph 2 of the Complaint.

3. The allegations contained in Paragraph 3 of the Complaint are not directed at the City and, therefore, require no response from Municipal Defendant. However, to the extent the allegations of Paragraph 3 are construed as requiring a response from Municipal Defendant, the same are denied.

4. Municipal Defendant denies the allegations contained in Paragraph 4 of the Complaint.

### **JURISDICTION AND VENUE**

5. Municipal Defendant admits this Court has subject matter jurisdiction over this action. Municipal Defendant denies the remaining allegations contained in Paragraph 5 of the Complaint.

6. Municipal Defendant admits this Court has subject matter jurisdiction over this action and that venue is proper in this Court. Municipal Defendant denies the remaining allegations contained in Paragraph 6 of the Complaint.

**STATEMENT OF THE FACTS**

7. Municipal Defendant admits that the City operates under the Mayor-Council form of government as alleged in Paragraph 7 of the Complaint. Municipal Defendant denies the remaining allegations contained in Paragraph 7 of the Complaint.

8. Municipal Defendant admits Plaintiff was employed by Municipal Defendant as the City's Equal Opportunity Business Manager in January 2015 and that the Mayor, as the appointing authority for Municipal Defendant, approved said position.

9. Municipal Defendant admits, upon information and belief, that Jason Goree was Plaintiff's immediate supervisor and that Eric Jefferson was the Director of Planning and Development as alleged in Paragraph 9 of the Complaint. Municipal Defendant denies the remaining allegations contained in Paragraph 9 of the Complaint.

10. Municipal Defendant denies the allegations contained in Paragraph 10 of the Complaint.

11. Municipal Defendant denies the allegations contained in Paragraph 11 of the Complaint.

12. Municipal Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 12 of the Complaint and, therefore, denies same and demands strict proof thereof.

13. Municipal Defendant denies the allegations contained in Paragraph 13 of the Complaint.

14. Municipal Defendant denies the allegations contained in Paragraph 14 of the Complaint.

15. Municipal Defendant denies the allegations contained in Paragraph 15 of the Complaint.

16. Municipal Defendant denies the allegations contained in Paragraph 16 of the Complaint.

17. Municipal Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 17 of the Complaint and, therefore, denies the same and demands strict proof thereof.

18. Municipal Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 18 of the Complaint and, therefore, denies the same and demands strict proof thereof.

19. Municipal Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 19 of the Complaint and, therefore, denies the same and demands strict proof thereof.

20. Municipal Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 20 of the Complaint and, therefore, denies same and demands strict proof thereof.

21. Municipal Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 21 of the Complaint and, therefore, denies the same and demands strict proof thereof.

22. Municipal Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 22 of the Complaint and, therefore, denies same and demands strict proof thereof.

23. Municipal Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 23 of the Complaint and, therefore, denies same and demands strict proof thereof.

24. Municipal Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 24 of the Complaint and, therefore, denies the same and demands strict proof thereof.

25. Municipal Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 25 of the Complaint and, therefore, denies the same and demands strict proof thereof.

26. Municipal Defendant denies the allegations contained in Paragraph 26 of the Complaint.

27. Municipal Defendant denies the allegations contained in Paragraph 27 of the Complaint.

28. Municipal Defendant denies the allegations contained in Paragraph 28 of the Complaint.

29. Municipal Defendant denies the allegations contained in Paragraph 29 of the Complaint.

30. Municipal Defendant denies the allegations contained in Paragraph 30 of the Complaint.

31. Municipal Defendant denies the allegations contained in Paragraph 31 of the Complaint.

32. Municipal Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 32 of the Complaint and, therefore, denies same and demands strict proof thereof.

33. Municipal Defendant denies the allegations contained in Paragraph 33 of the Complaint.



34. Municipal Defendant admits the allegations contained in Paragraph 34 of the Complaint.

35. Municipal Defendant denies the allegations contained in Paragraph 35 of the Complaint.

36. Municipal Defendant denies the allegations contained in Paragraph 36 of the Complaint.

37. Municipal Defendant denies the allegations contained in Paragraph 37 of the Complaint.

38. Municipal Defendant denies the allegations contained in Paragraph 38 of the Complaint.

39. Municipal Defendant denies the allegations contained in Paragraph 39 of the Complaint.

40. Municipal Defendant denies the allegations contained in Paragraph 40 of the Complaint.

41. Municipal Defendant denies the allegations contained in Paragraph 41 of the Complaint.

42. Municipal Defendant denies the allegations contained in Paragraph 42 of the Complaint.

43. Municipal Defendant denies the allegations contained in Paragraph 43 of the Complaint.

44. Municipal Defendant denies the allegations contained in Paragraph 44 of the Complaint.

45. Municipal Defendant denies the allegations contained in Paragraph 45 of the Complaint.

46. Municipal Defendant denies the allegations contained in Paragraph 46 of the Complaint.

47. Municipal Defendant denies the allegations contained in Paragraph 47 of the Complaint.

48. Municipal Defendant denies the allegations contained in Paragraph 48 of the Complaint.

49. Municipal Defendant denies the allegations contained in Paragraph 49 of the Complaint.

**CAUSES OF ACTION**

**COUNT I – VIOLATION OF TITLE VII – SEXUAL HARASSMENT AND THE 14<sup>TH</sup> AMENDMENT THROUGH § 1983 – EQUAL PROTECTION**

50. Municipal Defendant incorporates its responses to Paragraphs 1 through 49 of the Complaint in response to Paragraph 50 of the Complaint.

51. Municipal Defendant denies the allegations contained in Paragraph 51 of the Complaint.

52. Municipal Defendant denies the allegations contained in Paragraph 52 of the Complaint.

**COUNT II – VIOLATIONS OF TITLE VII AND THE 14<sup>TH</sup> AMENDMENT THROUGH § 1983 – RETALIATION**

53. Municipal Defendant incorporates its responses to Paragraphs 1 through 52 of the Complaint in response to Paragraph 53 of the Complaint.

54. Municipal Defendant denies the allegations contained in Paragraph 54 of the Complaint.

55. Municipal Defendant denies the allegations contained in Paragraph 55 of the Complaint.

**COUNT III – VIOLATION OF THE 1<sup>ST</sup> AMENDMENT  
OF THE U.S. CONSTITUTION**

56. Municipal Defendant incorporates its responses to Paragraphs 1 through 55 of the Complaint in response to Paragraph 56 of the Complaint.

57. Municipal Defendant denies the allegations contained in Paragraph 57 of the Complaint.

58. Municipal Defendant denies the allegations contained in Paragraph 58 of the Complaint.

59. Municipal Defendant denies the allegations contained in Paragraph 59 of the Complaint.

60. Municipal Defendant denies the allegations contained in Paragraph 60 of the Complaint.

61. Municipal Defendant denies the allegations contained in Paragraph 61 of the Complaint.

62. Municipal Defendant denies the allegations contained in Paragraph 62 of the Complaint.

63. Municipal Defendant denies the allegations contained in Paragraph 63 of the Complaint.

64. Municipal Defendant denies the allegations contained in Paragraph 64 of the Complaint.

**COUNT IV – VIOLATION OF THE STATE COMMON LAW**

65. Municipal Defendant incorporates its responses to Paragraphs 1 through 64 of the Complaint in response to Paragraph 65 of the Complaint.

66. Municipal Defendant denies the allegations contained in Paragraph 66 of the Complaint.

67. Municipal Defendant denies the allegations contained in Paragraph 67 of the Complaint.

68. Municipal Defendant denies the allegations contained in Paragraph 68 of the Complaint.

**PRAYER FOR RELIEF**

Municipal Defendant denies the allegations contained in the last unnumbered paragraph of the Complaint beginning “**WHEREFORE PREMISES CONSIDERED, . . .**”, inclusive of the allegations contained in subparagraphs (1) through (6).

Municipal Defendant further specifically denies that the Plaintiff is entitled to any relief whatsoever against Municipal Defendant.

THIS, the 30<sup>th</sup> day of May, 2017.

Respectfully submitted,

PHELPS DUNBAR, LLP

BY: /s/ LaToya C. Merritt

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**ATTORNEYS FOR MUNICIPAL  
DEFENDANT**

**CERTIFICATE OF SERVICE**

I, JASON T. MARSH, do hereby certify that on May 30, 2017 I electronically filed the above and foregoing *MUNICIPAL DEFENDANT'S AMENDED ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT* with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following counsel of record:

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***ATTORNEY FOR PLAINTIFF***

*/s/ LaToya C. Merritt*

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LATOYA C. MERRITT