

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

AMANDA WILLIAMS

PLAINTIFF

VS.

CASE NO. 3:16CV367DPJ-FKB

CITY OF JACKSON, MISSISSIPPI

DEFENDANT

**CITY OF JACKSON, MISSISSIPPI'S
ANSWER AND AFFIRMATIVE DEFENSES
TO PLAINTIFF'S AMENDED COMPLAINT**

COMES NOW Defendant City of Jackson (hereinafter referred to as “City of Jackson” or “City”) pursuant to the Federal Rules of Civil Procedure, files this Answer and Affirmative Defenses to Plaintiff’s Amended Complaint filed against them in the above-styled cause and states as follows:

Without waiving any of the defenses stated herein, the City of Jackson Defendants respond to the allegations contained in the Complaint, paragraph by paragraph, as follows:

To the extent a response is required, the City of Jackson denies Plaintiff’s opening paragraph commencing with the words “COMES NOW ...” to the extent that it attempts to imply liability upon the City.

JURISDICTION AND VENUE

1. The allegations contained in Paragraph 1 of the Complaint are not directed to the City of Jackson. Without waiver of any of its defenses herein, and upon

information and belief, the City of Jackson admits that this Court has federal questions jurisdiction.

2. The allegations contained in Paragraph 2 of the Complaint are not directed to the City of Jackson. Without waiver of any of its defenses herein, and upon information and belief, the City of Jackson admits that this Court has federal questions jurisdiction.

3. The allegations contained in Paragraph 3 of the Complaint are not directed to the City of Jackson. Without waiver of any of its defenses herein, and upon information and belief, the City of Jackson admits that venue is proper in this Court. However, to the extent that the remaining allegations of Paragraph 3 may be directed and/or pertain to the City of Jackson, the City of Jackson denies these allegations.

PARTIES

4. Without waiver of any of its defenses herein, the City of Jackson admits, upon information and belief, that the Plaintiff is an adult, resident citizen of Hinds County, Mississippi and resides at 1010 Bellevue Place, Unit B. Jackson, Mississippi 39202. However, the City is without sufficient information to admit or deny the remaining allegations contained in Paragraph 4 of the Complaint and therefore denies same.

5. Without waiver of any of its defenses herein, the City of Jackson admits that it may be served with process by serving a copy of the Summons and Complaint upon the City Clerk's Office. However, the City is without sufficient information to

admit or deny the remaining allegations contained in Paragraph 5 of the Complaint and therefore denies same.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

6. The City of Jackson is without sufficient information to admit or deny the allegations contained in Paragraph 6 of the Complaint and therefore denies same.

7. The City of Jackson is without sufficient information to admit or deny the allegations contained in Paragraph 7 of the Complaint and therefore denies same.

STATEMENT OF FACTS

8. The City of Jackson denies the allegations contained in Paragraph 8 of the Complaint.

9. Without waiver of any of its defenses herein, the City of Jackson admits, upon information and belief, that Plaintiff was hired by the City on or about May 18, 2014 as alleged in Paragraph 9 of the Complaint. However, the City denies the remaining allegations contained in Paragraph 9 of the Complaint as phrased.

10. The City of Jackson is without sufficient information to admit or deny the allegations in Paragraph 10 of the Complaint and therefore denies same.

11. The City of Jackson denies the allegations contained in Paragraph 11 of the Complaint as phrased.

12. The City of Jackson is without sufficient information to admit or deny the allegations contained in Paragraph 12 of the Complaint and therefore denies same.

13. The City of Jackson denies the allegations contained in Paragraph 13 of the Complaint as phrased and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

14. The City of Jackson denies the allegations contained in Paragraph 14 of the Complaint as phrased and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

15. The City of Jackson denies the allegations contained in Paragraph 15 of the Complaint as phrased and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

16. The City of Jackson denies the allegations contained in Paragraph 16 of the Complaint as phrased and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

17. The City of Jackson denies the allegations contained in Paragraph 17 of the Complaint as phrased and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

18. The City of Jackson denies the allegations contained in Paragraph 18 of the Complaint as phrased and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

19. The City of Jackson denies the allegations contained in Paragraph 19 of the Complaint as phrased and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

20. The City of Jackson is without sufficient information to admit or deny the allegations in Paragraph 20 of the Complaint and therefore denies same.

21. The City of Jackson denies the allegations contained in Paragraph 21 of the Complaint, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

22. The City of Jackson is without sufficient information to admit or deny the allegations in Paragraph 22 of the Complaint and therefore denies same.

23. Without waiver of any of its defenses herein, the City of Jackson admits, upon information and belief, the allegations contained in Paragraph 23 of the Complaint. However, the City of Jackson specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendants.

24. The City of Jackson is without sufficient information to admit or deny the allegations in Paragraph 24 of the Complaint as phrased and therefore denies same.

25. The City of Jackson is without sufficient information to admit or deny the allegations in paragraph 25 of the Complaint as phrased and therefore denies same.

26. The City of Jackson is without sufficient information to admit or deny the allegations contained in Paragraph 26 of the Complaint as phrased and therefore denies same.

27. The City of Jackson denies the allegations contained in Paragraph 27 of the Complaint as phrased and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendants.

28. The City of Jackson is without sufficient information to admit or deny the allegations contained in Paragraph 28 of the Complaint as phrased and therefore denies same.

29. Without waiver of any of its defenses herein, the City of Jackson admits, upon information and belief, that a termination letter dated January 27, 2015, was mailed to Plaintiff. However, the City of Jackson denies the remaining allegations contained in Paragraph 29 of the Complaint and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendants.

30. The City is without sufficient information to admit or deny the allegations contained in Paragraph 30 of the Complaint and therefore denies same.

CAUSE OF ACTION

SEX DISCRIMINATION IN VIOLATION OF TITLE VII

31. The City of Jackson denies the allegations in paragraph 31 of the Complaint, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendants.

32. The City of Jackson denies the allegations in paragraph 32 of the Complaint as phrased, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendants.

33. The City of Jackson denies the allegations contained in Paragraph 33 of the Complaint as phrased, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendants.

34. The City of Jackson denies the allegations contained in Paragraph 34 of the Complaint, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendants.

35. The City of Jackson denies the allegations contained in Paragraph 35 of the Complaint as phrased, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendants.

36. The City of Jackson denies the allegations contained in Paragraph 36 of the Complaint, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendants.

37. The City of Jackson denies the allegations contained in Paragraph 37 of the Complaint, as phrased, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendants.

38. The City of Jackson denies the allegations contained in Paragraph 38 of the Complaint, as phrased, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendants.

39. The City of Jackson denies the allegations contained in Paragraph 39 of the Complaint, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

40. The City of Jackson denies the allegations contained in paragraph 40 of the Complaint, as phrased, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendants.

41. The City of Jackson denies the allegations contained in Paragraph 41 of the Complaint, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

42. The City of Jackson denies the allegations contained in Paragraph 42 of the Complaint, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

43. The City of Jackson denies the allegations contained in Paragraph 43 of the Complaint, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

44. The City of Jackson denies the allegations contained in Paragraph 44 of the Complaint, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

DAMAGES

45. The City of Jackson denies the allegations contained in Paragraph 45 of the Complaint, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

RELIEF

46. The City of Jackson denies the allegations contained in Paragraph 46 including sub-paragraphs A – F of the Complaint, and specifically denies that the Plaintiff is entitled to any recovery whatsoever against said Defendant.

47. The City of Jackson Defendants denies the allegations contained in the last unnumbered paragraph of the Complaint commencing with the words “WHEREFORE, PREMISES CONSIDERED, . . .” The City of Jackson Defendants specifically denies that the Plaintiff is entitled to any relief whatsoever against the City of Jackson Defendants.

AND NOW, having fully and completely answered the Complaint and allegations filed against them, City of Jackson Defendants plead as follows:

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Complaint fails to state a claim upon which relief can be granted and therefore, should be dismissed with prejudice.

Second Affirmative Defense

The Plaintiff failed to comply with any and all statutory, administrative and procedural pre-requisites before filing suit.

Third Affirmative Defense

The Plaintiff’s claims are barred, in whole or in part, by the applicable statute of limitations and should therefore be dismissed with prejudice with all costs assessed against the Plaintiff.

Fourth Affirmative Defense

The Plaintiff's Complaint is barred by the doctrines of laches, res judicata, collateral estoppel, and unclean hands and therefore, should be dismissed with prejudice.

Fifth Affirmative Defense

The Plaintiff's claims are barred, in whole or in part, by the principles of waiver and/or estoppel and therefore, should be dismissed with prejudice with all costs assessed against the Plaintiff.

Sixth Affirmative Defense

At all times material to the Complaint, the City acted reasonably and in accordance with the law and did not breach any duty which may have been owed to Plaintiff, whether contractual, common law, state or federal statutory law.

Seventh Affirmative Defense

The City reserves all statutory and/or indemnity rights it may have against all others whether parties to this action or not.

Eighth Affirmative Defense

The City denies that any of its actions and/or omissions caused the Plaintiff harm or special harm.

Ninth Affirmative Defense

The City denies each and every allegation in which the Plaintiff seeks to impose liability upon them, whether expressly denied herein or not.

Tenth Affirmative Defense

The Plaintiff's claims against the Defendants are prohibited by prevailing Federal and State Law and all other applicable defenses thereto as is alleged to have arisen out of the acts, practices, policies or procedures of a government entity.

Eleventh Affirmative Defense

The City has no customs, practices, or policies that caused or contributed to the alleged deprivations, injuries and/or damages, if any, suffered by the Plaintiff.

Twelfth Affirmative Defense

The City affirmatively denies that the Plaintiff sustained any damages as alleged in the Plaintiff's Complaint.

Thirteenth Affirmative Defense

Any damages sustained by the Plaintiff were solely and proximately caused and/or contributed to by the unforeseeable, intervening or superseding causes and/or other causes attributable to persons, entities or events with respect to which the Defendants had neither control, right to control, duty to control or any other legal relationship whatsoever.

Fourteenth Affirmative Defense

The Plaintiff had a duty to use reasonable care to mitigate damages, if any. Any injury, damage, or deprivation alleged or suffered by the Plaintiff was the result of the

Plaintiff's failure to act reasonably to avoid or mitigate such injury, damage or deprivation.

Fifteenth Affirmative Defense

The Plaintiff failed to state a prima facie case under 42 U.S.C. § 2000(e) et. seq. However, even assuming that the Plaintiff has stated a prima facie case, all conduct and actions on the part of the City concerning the Plaintiff were based on legitimate, non-discriminatory, and non-retaliatory reasons.

Sixteenth Affirmative Defense

The City hereby asserts the defenses of sovereign immunity, qualified immunity and any other immunity available under federal or state law.

Seventeenth Affirmative Defense

At all times material to the Complaint, the City used the degree of care required of them under law and is not liable in damages, if any, to the Plaintiff.

Eighteenth Affirmative Defense

The Plaintiff has failed to establish a causal connection between her exercise of statutory rights and any adverse employment action.

Nineteenth Affirmative Defense

The City affirmatively aver that the Plaintiff is not entitled to an award of compensatory damages, pre-judgment and post-judgment interest, attorneys' fees, costs of suit and for such other and further relief.

Twentieth Affirmative Defense

The Plaintiff failed to exhaust all available administrative and/or other judicial remedies before filing the instant action.

Twentieth-First Affirmative Defense

The Plaintiff's claims for intentional torts, if any, are barred by the applicable one-year statute of limitations.

Twenty-Second Affirmative Defense

The Plaintiff's claims for negligent infliction of emotional distress and general negligence against the Defendants, if any, are bared by the applicable statute of limitations.

Twenty-Third Affirmative Defense

The Plaintiff failed to comply with any and all statutory, administrative and procedural prerequisites before filing suit.

Twenty-Fourth Affirmative Defense

The City asserts all other affirmative defenses to which it may be entitled, including contributory negligence, estoppel, fraud, illegality, res judicata, collateral estoppel, statute of frauds and waiver.

Twenty-Fifth Affirmative Defense

The actions or inactions on the part of the Plaintiff was the sole, proximate and only cause of the incident complained of and the alleged damages sustained by the

Plaintiff, if any. Alternatively, the actions or inactions on the part of the Plaintiff amounted to an intervening cause and as such, constitute the sole, proximate cause of the incident complained of and the damages sustained by Plaintiff, if any.

Twenty-Sixth Affirmative Defense

If the actions or inactions on the part of the Plaintiff was not the sole, proximate and only cause of the incident complained of and the alleged damages sustained by the Plaintiff, if any, the actions or inactions on the part of the Plaintiff caused and contributed to the incident of and the damages sustained by the Plaintiff, if any, and any damages which the Plaintiff would otherwise be entitled, must be reduced in degree and to the proportion that the action or inaction of the Plaintiff caused or contributed to the incident.

Twenty-Seventh Affirmative Defense

The Plaintiff's claims against the City are prohibited because the claim upon which such is based arises out of the exercise or performance of a discretionary function or duty and as such, the City is immune from liability.

Twenty-Eighth Affirmative Defense

The alleged acts or omissions alleged by the Plaintiff against the City as may be set forth in the Complaint herein, do not rise to the level of a constitutional violation.

Twenty-Ninth Affirmative Defense

The Plaintiff is not entitled to recover punitive damages pursuant to 42 U.S.C §1983 or official capacity theory against the City, as recovery of such damages is prohibited.

Thirtieth Affirmative Defense

The Plaintiff has failed to state, with specificity, any actual injury and therefore, cannot recover against the Defendants pursuant to 42 U.S.C §1983.

Thirtieth-First Affirmative Defense

Without waiving any other affirmative defense, the City affirmatively pleads and allege that they are not responsible for the intentional acts, if any, by agents, representatives or employees of the City or any other Defendant toward the Plaintiff and that any alleged intentional acts of any agent, representative or employee of the City and/or any other Defendant, if any, were not reasonably foreseeable by the City.

Thirty-Second Affirmative Defense

The City asserts any and all other defenses available to them under Miss. Code Ann. §85-5-7 and §11-1-65.

Thirty-Third Affirmative Defense

The Plaintiff's Complaint is barred because the City had a legitimate, nondiscriminatory reason for its employment action, and did not have any age-related, gender-related, ethnic origin related or sex-related animus for the Plaintiff.

Thirty-Fourth Affirmative Defense

The City affirmatively asserts any and all equitable defenses available as a bar to Plaintiff's claims, including, but not limited to, Plaintiff's unclean hands.

Thirty-Fifth Affirmative Defense

The City affirmatively pleads that it had good cause to terminate Plaintiff, and that said good cause was not a pretext for any discrimination or retaliation as may be alleged in the Complaint.

Thirty-Sixth Affirmative Defense

The alleged acts or omissions alleged by the Plaintiff against the City as may be set forth in the Complaint herein, do not rise to the level of a constitutional violation.

Thirty-Seventh Affirmative Defense

The City asserts all rights of credit, set off and/or contribution that it may have pursuant to the laws of the State of Mississippi.

Thirty-Eighth Affirmative Defense

The City hereby reserves the right to assert additional defenses which may become available or apparent upon further investigation and discovery into the matters alleged in this civil action and reserves the right to amend their answers to assert any such defenses.

Respectfully submitted this the 12th day of December 2016.

CITY OF JACKSON, MISSISSIPPI

BY: /s/LaShundra Jackson-Winters
LaShundra Jackson-Winters, MSB #101143
Deputy City Attorney

OF COUNSEL:

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CERTIFICATE OF SERVICE

The undersigned certifies that she has this day transmitted via electronic mail through ECF electronic filing, a true and correct copy of the foregoing Answer and Affirmative Defenses to the following:

E. Carlos Tanner, III, Esq.
TANNER & ASSOCIATES, LLC
P.O. Box 3709
Jackson, Mississippi 39207
Attorney for Plaintiff

So certified, this the 12th day of December, 2016.

/s/ LaShundra Jackson-Winters
LASHUNDRA JACKSON-WINTERS