

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

|                            |   |                              |
|----------------------------|---|------------------------------|
| Jodi Ridgeway,             | ) | C/A NO. 4:19-cv-03501-DCC-BM |
|                            | ) |                              |
| Plaintiff,                 | ) |                              |
|                            | ) |                              |
| vs.                        | ) | <b>ANSWER</b>                |
|                            | ) |                              |
| Horry County Police Dept., | ) |                              |
|                            | ) |                              |
| Defendant.                 | ) |                              |
| _____                      | ) |                              |

This Complaint was originally filed in the State of South Carolina Horry County Court of Common Pleas. The case was timely removed to this Court. Denying all allegations not specifically admitted, the Defendant responds to the Complaint as follows:

1. The Defendant admits so much of the allegations in Paragraph 1 which allege that the Plaintiff purports to bring this action pursuant to “Title VII”, a federal statutory scheme. The Defendant further acknowledges that this Court has jurisdiction over the Plaintiff’s claims. The Defendant denies any liability to the Plaintiff for the acts alleged in the Complaint.

2. The Defendant acknowledges that the action was brought and filed in the South Carolina State Court; however, the action has been properly removed to this Court.

3. Upon information and belief, the Defendant admits that the Plaintiff was a resident of Horry County. The Defendant is not aware of the Plaintiff’s age and would therefore deny any assertion regarding the Plaintiff’s age.

4. The Defendant admits so much of the allegations of Paragraph 4 which may allege that the Horry County Police Department is a unit of Horry County Government. At all times alleged herein Horry County was the employer of the Plaintiff and the Plaintiff’s

employment was governed by Horry County employment policies. To the extent the allegations of Paragraph 4 of the Complaint contradict the above, those allegations are denied.

5. The Defendant admits the allegations of Paragraph 5.

6. The Defendant admits so much of the allegations of Paragraph 6 which may allege that the Horry County Police Department is a unit of government of the Horry County Government. At all times alleged herein Horry County was the employer of the Plaintiff and the Plaintiff's employment was governed by Horry County employment policies. To the extent the allegations of Paragraph 6 of the Complaint contradict the above, those allegations are denied.

7. The basis of jurisdiction of this Court is pursuant to 28 U.S.C. §1331 and the Plaintiff purports to bring a Title VII action. The remaining allegations of Paragraph 7 are denied.

8. The Defendant admits so much of the allegations of Paragraph 8 which allege that the Court has jurisdiction over claims involving declaratory relief and/or injunctive relief; however, the Defendant denies that the Plaintiff has properly plead any action for which declaratory or injunctive relief may be available.

9. The Defendant admits so much of the allegations of Paragraph 9 which allege that the Plaintiff is a resident of Horry County and was employed by the Defendant in Horry County. The Defendant would further allege that this Court has jurisdiction over this action.

10. The Defendant admits so much of the allegations of Paragraph 10 which allege that the Plaintiff is an employee of Horry County as defined by Title VII.

11. The Defendant denies the allegations of Paragraph 11. By further way of answer, the Defendant would admit so much of the allegations of Paragraph 11 which allege that the Plaintiff submitted a charge of discrimination to the EEOC dated December 6, 2018.

12. The Defendant denies the allegations of Paragraph 12. By further way of answering the allegations of Paragraph 12, the Defendant would crave reference to the actual charge of discrimination.

13. The Defendant denies the allegations of Paragraph 13. The Defendant would crave reference to the actual charge of discrimination for the precise language contained therein.

14. Upon information and belief, the allegations of Paragraph 14 are admitted.

15. The Defendant admits so much of the allegations of Paragraph 15 which allege that the Plaintiff submitted a second charge of discrimination which was assigned EEOC Charge No. 415-2019-00740. The Defendant would crave reference to the actual charge of discrimination for its precise content.

16. The Defendant admits so much of the allegations of Paragraph 16 which allege that the Plaintiff submitted a second charge of discrimination which was assigned EEOC Charge No. 415-2019-00740. The Defendant would crave reference to the actual charge of discrimination for its precise content.

17. The Defendant denies the allegations of Paragraph 17. By further way of answering the allegations of Paragraph 17, the Defendant would allege that the Plaintiff filed a third charge of discrimination which was assigned EEOC Charge No. 415-2019-01339. The Defendant would crave reference to the charge for its precise content and language.

18. The Defendant denies the allegations of Paragraph 18. By further way of answering the allegations of Paragraph 18, the Defendant would allege that the Plaintiff filed a third charge of discrimination which was assigned EEOC Charge No. 415-2019-01339. The Defendant would crave reference to the charge for its precise content and language.

19. The Defendant is unaware of when the Plaintiff received any correspondence from the South Carolina Human Affairs Commission and would therefore deny the allegations of Paragraph 19.

20. The Defendant is unaware of when the Plaintiff received any correspondence from the South Carolina Human Affairs Commission and would therefore deny the allegations of Paragraph 20.

21. The Defendant is unaware of when the Plaintiff received any correspondence from the Equal Employment Opportunity Commission and would therefore deny the allegations of Paragraph 21.

22. The Defendant is unaware of when the Plaintiff received any correspondence from the Equal Employment Opportunity Commission and would therefore deny the allegations of Paragraph 22.

23. The Defendant is unaware of when the Plaintiff received any correspondence from the Equal Employment Opportunity Commission and would therefore deny the allegations of Paragraph 23.

24. The Defendant is unaware of when the Plaintiff received any correspondence from the Equal Employment Opportunity Commission and would therefore deny the allegations of Paragraph 24. By further way of answering the allegations of Paragraph 24, the Defendant denies that fewer than 90 days have elapsed since the Plaintiff received any Right To Sue Letter from the South Carolina Human Affairs Commission by virtue of the Plaintiff's allegations of Paragraphs 19 and 20 of the Complaint.

25. The Defendant has no knowledge as to the allegations of Paragraph 25 and would therefore deny same. The Defendant also denies that the Plaintiff's age was ever at issue in any of her charges of discrimination.

26. The Defendant denies the allegations of Paragraph 26. By further way of answering the allegations of Paragraph 26, the Defendant would admit that Horry County Government is an employer as defined in Title VII.

27. The Defendant admits the allegations of Paragraph 27.

28. The Defendant would admit so much of the allegations of Paragraph 28 which would allege that the Plaintiff is an experienced law enforcement officer.

29. The Defendant admits the allegations of Paragraph 29.

30. The Defendant admits the allegations of Paragraph 30.

31. The Defendant denies the allegations of Paragraph 31. By further way of answering the allegations of Paragraph 31, the Defendant notes that the Plaintiff has been a valued member of the Horry County Police Department throughout her employment with the Defendant.

32. The Defendant admits so much of the allegations of Paragraph 32 which allege that a new chief assumed office in 2016. The remaining allegations of Paragraph 32 are denied.

33. The Defendant would admit so much of the allegations of Paragraph 33 which allege that the Plaintiff participated in the Citizen Police Academy Program.

34. The Defendant denies the allegations of Paragraph 34.

35. The Defendant denies the allegations of Paragraph 35. By further way of answering the allegations of Paragraph 35, the Defendant would admit that the Plaintiff has been a candidate for an Internal Affairs position first advertised on October 1, 2018.

36. The Defendant admits so much of the allegations of Paragraph 36 which allege that Mr. Causey resigned his position with the Department. The remaining allegations of Paragraph 36 are denied.

37. The Defendant admits so much of the allegations of Paragraph 37 which may allege that a position for an Internal Affairs Investigator was advertised by the Defendant on October 1, 2018. The remaining allegations of Paragraph 37 are denied.

38. The Defendant admits that on October 1, 2018, a position of Internal Affairs Investigator in the Horry County Police Department was advertised.

39. The Defendant admits so much of the allegations of Paragraph 39 which allege that the Plaintiff applied for the position referenced in Paragraph 38.

40. The Defendant denies the allegations of Paragraph 40. By further way of answering the allegations of Paragraph 40, the Defendant would allege that the 4 top candidates for the position of Internal Affairs Investigations were identified by the hiring committee and the Plaintiff was included in this list. Any further allegations of Paragraph 40 inconsistent with the above answer is denied.

41. The Defendant admits the allegations of Paragraph 41.

42. The Defendant denies the allegations of Paragraph 42.

43. The Defendant has no knowledge of the allegations of Paragraph 43 and would therefore deny same.

44. The Defendant denies the allegations of Paragraph 44. By further way of answering the allegations of Paragraph 44, the Defendant would admit that Eric Carpenter was hired for the position at issue.

45. The Defendant denies the allegations of Paragraph 45.

46. The Defendant denies the allegations of Paragraph 46.

47. The Defendant denies the allegations of Paragraph 47.

48. The Defendant has no knowledge of the allegations of Paragraph 48 and would therefore deny same.

49. The Defendant has no knowledge of the allegations of Paragraph 49 and would therefore deny same.

50. The Defendant denies the allegations of Paragraph 50.

51. The Defendant denies the allegations of Paragraph 51.

52. The Defendant admits so much of the allegations of Paragraph 52 which allege that John Harris resigned from employment with the Defendant. The remaining allegations of Paragraph 52 are denied.

53. The Defendant denies the allegations of Paragraph 53.

54. The Defendant admits so much of the allegations of Paragraph 54 which allege that John Harris was one of the assessers who participated in the November 2018 interviews of the Plaintiff and others. The remaining allegations of Paragraph 54 are denied.

55. The Defendant admits so much of the allegations of Paragraph 55 which allege that Mr. Carpenter resigned his position with the Defendant. The remaining allegations of Paragraph 55 are denied.

56. The Defendant denies the allegations of Paragraph 56.

57. The Defendant denies the allegations of Paragraph 57.

58. The Defendant denies the allegations of Paragraph 58.

59. The Defendant admits so much of the allegations of Paragraph 59 which may allege that Officer Phillips was transferred to the Internal Affairs position vacated by Mr. Harris. The remaining allegations of Paragraph 59 are denied.

60. The Defendant denies the allegations of Paragraph 60.

61. The Defendant admits so much of the allegations of Paragraph 61 which allege that the Plaintiff filed a second charge of discrimination. The Defendant would crave reference to the actual charge for the specifics contained therein.

62. The Defendant denies the allegations of Paragraph 62.

63. The Defendant denies the allegations of Paragraph 63. By further way of answering the allegations of Paragraph 63, the Defendant would admit that the Detective Hemingway was appointed to fill the open position created by the departure of Mr. Carpenter. The Defendant further admits that the Plaintiff filed a third charge of discrimination following Mr. Hemingway's appointment.

64. The Defendant denies the allegations of Paragraph 64.

65. The Defendant denies the allegations of Paragraph 65.

66. The Defendant admits so much of the allegations of Paragraph 66 which may allege that the Plaintiff's employee evaluations and treatment by the Department indicate that she has always been a valued member of the Horry County Police Department. To the extent the allegations of Paragraph 66 are inconsistent with the above statement, those allegations are denied.

67. The Defendant denies the allegations of Paragraph 67.

68. The Defendant denies the allegations of Paragraph 68.

69. The Defendant denies the allegations of Paragraph 69.



70. The Defendant denies the allegations of Paragraph 70.

71. The Defendant denies the allegations of Paragraph 71.

72. The Defendant denies the allegations of Paragraph 72.

73. The Defendant denies the allegations of Paragraph 73.

74. The Defendant denies the allegations of Paragraph 74 and all subparts.

75. The Defendant denies the allegations of Paragraph 75.

76. The Defendant denies the allegations of Paragraph 76.

77. To the extent the allegations of Paragraph 77 require a response from this Defendant, those allegations are denied.

78. The Defendant denies the allegations of Paragraph 78. By further way of answering the allegations of Paragraph 78, the Defendant would admit that Horry County Government is an employer as defined in Title VII.

79. The Defendant admits the allegations of Paragraph 79.

80. The Defendant denies the allegations of Paragraph 80. By further way of answering the allegations of Paragraph 80, the Defendant notes that the Plaintiff has been a valued member of the Horry County Police Department throughout her employment with the Defendant.

81. The Defendant denies the allegations of Paragraph 81.

82. Upon information and belief, the allegations of Paragraph 82 are admitted.

83. The Defendant denies the allegations of Paragraph 83.

84. The Defendant admits so much of the allegations of Paragraph 84 which allege that the Plaintiff was interviewed for a position within the Department's Internal Affairs Division.

85. The Defendant denies the allegations of Paragraph 85.

86. The Defendant denies the allegations of Paragraph 86.

87. The Defendant denies the allegations of Paragraph 87.

88. The Defendant denies the allegations of Paragraph 88.

89. The Defendant denies the allegations of Paragraph 89.

90. The Defendant denies the allegations of Paragraph 90.

91. The Defendant denies the allegations of Paragraph 91.

92. The Defendant denies the allegations of Paragraph 92 and all subparts.

93. The Defendant denies the allegations of Paragraph 93.

94. To the extent the allegations of Paragraph 94 require a response from this Defendant, those allegations are denied.

95. The Defendant denies the allegations of Paragraph 95. By further way of answering the allegations of Paragraph 95, the Defendant would admit that Horry County Government is an employer as defined in Title VII.

96. The Defendant admits the allegations of Paragraph 96.

97. The Defendant admits so much of the allegations of Paragraph 97 which allege that the Plaintiff is currently employed with the Defendant and that she has been a valued employee throughout her tenure with the Department. To the extent the allegations of Paragraph 97 are inconsistent with this statement, those allegations are denied.

98. The Defendant denies the allegations of Paragraph 98.

99. The Defendant denies the allegations of Paragraph 99.

100. The Defendant denies the allegations of Paragraph 100.

101. The Defendant denies the allegations of Paragraph 101.

102. The Defendant denies the allegations of Paragraph 102.

103. The Defendant denies the allegations of Paragraph 103.

104. The Defendant denies the allegations of Paragraph 104.

105. To the extent the allegations of Paragraph 105 require a response from this Defendant, those allegations are denied.

106. The Defendant admits the allegations of Paragraph 106.

107. The Defendant denies the allegations of Paragraph 107. By further way of answering the allegations of Paragraph 107, the Defendant would admit that the Plaintiff has filed several charges of discrimination and would crave reference to each for their precise content.

108. The Defendant denies the allegations of Paragraph 108.

109. The Defendant denies the allegations of Paragraph 109.

110. The Defendant denies the allegations of Paragraph 110.

111. The Defendant denies the allegations of Paragraph 111.

112. The Defendant denies the allegations of Paragraph 112.

113. The Defendant denies the allegations of Paragraph 113.

114. The Defendant denies the allegations of Paragraph 114.

115. The Defendant denies that it has violated any provisions of the law with regards to the employment of the Plaintiff and would therefore deny that she is entitled to any of the relief as set forth in her prayer for relief.

**NOW THEREFORE**, having fully answered the allegations set forth in Plaintiff's Complaint, the Defendant in this action set forth its **DEFENSES AND AFFIRMATIVE DEFENSES**:

**FOR A FIRST DEFENSE**

116. Plaintiff's Complaint fails to state facts sufficient to constitute any cause of action or any claim upon which relief may be granted against this Defendant under Rule 12(b)(6) and/or Rule 12(c) of the Federal Rules of Civil Procedure.

**FOR A SECOND DEFENSE**

117. Plaintiff has failed to mitigate any damages she has allegedly suffered, and her claims are otherwise barred by the doctrine of unclean hands.

**FOR A THIRD DEFENSE**

118. The conduct of Defendant is not the proximate cause of the Plaintiff's injuries, if any, which the Defendant specifically denies.

**FOR A FOURTH DEFENSE**

119. To the extent Plaintiff has failed to comply with the pre-conditions to suit prescribed by Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* ("Title VII"), such claims are not actionable.

**FOR A FIFTH DEFENSE**

120. To the extent Plaintiff's claims under Title VII allege a basis or bases of unlawful discrimination different from that specified in Plaintiff's charge filed with the United States Equal Employment Opportunity Commission and/or the South Carolina Human Affairs Commission, such claims are not actionable.

**FOR A SIXTH DEENSE**

121. Plaintiff has not suffered any significant, adverse employment action because of religion, age, gender, race, retaliation or any other protected bases as required under Title VII.

**FOR A SEVENTH DEFENSE**

122. To the extent Plaintiff has not commenced this action within 90 days of her receipt of the appropriate Notice of Right to Sue from the United States Equal Employment Opportunity Commission or the South Carolina Human Affairs Commission, her claims under Title VII are not actionable.

**FOR AN EIGHTH DEFENSE**

123. To the extent Plaintiff's claims under Title VII are based on conduct occurring prior to 300 days of the filing of Plaintiff's charge with the United States Equal Employment Opportunity Commission and/or the South Carolina Human Affairs Commission, such claims are not actionable.

**FOR A NINTH DEFENSE**

124. Defendant is immune to Plaintiff's tort claims under the following provisions of the S.C. Tort Claims Act: S.C. Code Ann. § 15-78-20(f), S.C. Code Ann. § 15-78-30(f), S.C. Code Ann. § 15-78-30(i), S.C. Code Ann. § 15-78-60(4), S.C. Code Ann. § 15-78-60(14), S.C. Code Ann. § 15-78-60(17), S.C. Code Ann. § 15-78-70(b), S.C. Code Ann. § 15-78-110, and S.C. Code Ann. § 15-78-120.

**FOR A TENTH DEFENSE**

125. Some of Plaintiff's claims are barred by the doctrine of workers' compensation exclusivity.

**FOR AN ELEVENTH DEFENSE**

126. That to the extent this action is one seeking to collect punitive or exemplary damages brought against SCDPS, such an action for punitive damages is barred as a matter of law for a number of reasons, including but not limited to: the due process clause of the Fifth Amendment as applied to the states through the Fourteenth Amendment to the United States Constitution; an arguable extension of the prohibition of the excessive fines clause of the Eighth Amendment, as applied to the states through the Fourteenth Amendment; an arguable extension of the provisions of the Sixth Amendment to the United States Constitution, made applicable to the states through the Fourteenth Amendment; relevant provisions of the South Carolina Constitution, including, but not limited to, Article I, Section 3; and the S.C. Tort Claims Act as herein pled; all of which are asserted as bars to recovery of punitive damages against SCDPS.

127. That, moreover, as the present case and statutory law standard to measure and confer power to a jury to award punitive damages under South Carolina law has not been formulated to comport with federal or state constitutional rights and guarantees, lacks objective criteria, lacks a meaningful standard, is void for vagueness, and violates constitutional due process and equal protection, an award of punitive damages would violate the Defendants' constitutional rights and guarantees.

128. That, further, the Plaintiff has failed as a matter of law to state a claim for which punitive damage relief is available against the Defendant.

**WHEREFORE**, having fully answered the Complaint herein, the Defendant Horry County Police Department requests that:

1. The claims asserted and relief sought by Plaintiff be denied in each and every respect;
2. The claims asserted by Plaintiff be dismissed in their entirety with prejudice; and
3. Defendant be awarded its costs and attorney's fees under applicable case and statutory laws and such other and further relief as this Court may deem just and proper.

WILLCOX, BUYCK & WILLIAMS, P.A.

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