

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT IN AND FOR
FLAGLER COUNTY, FLORIDA

LISA MOORE,

Case No. 2020-CA-000292

Plaintiff,

v.

CITY OF BUNNELL, FLORIDA, a
municipality,

Defendant.

**DEFENDANT CITY OF BUNNELL'S ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFF'S COMPLAINT**

The Defendant, CITY OF BUNNELL, by its undersigned counsel, hereby serves
this, its Answer and Affirmative Defenses to the Plaintiff's Complaint, and states the
following:

1. Admitted for jurisdictional purposes.
2. Admitted.
3. On information and belief, admitted.
4. Admitted.
5. Admitted.
6. Denied.
7. Without knowledge, therefore denied.
8. No response required.
9. Admitted.
10. Denied.

11. Admitted that the Plaintiff complained to Human Resources regarding her supervisor Perry Mitrano. Otherwise, denied.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

16. Admitted.

17. Without knowledge, therefore denied.

18. Denied.

19. Denied.

20. Denied.

21. Defendant re-alleges and adopts its responses to paragraphs 1 through 20 as set forth above.

22. Admitted that the Plaintiff is making a claim for damages under the Florida Public Whistle Blower's Act.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

28. Defendant re-alleges and adopts its responses to paragraphs 1 through 20 as set forth above.

29. Admitted.

30. Denied.

31. Denied.

32. Denied.

33. Defendant re-alleges and adopts its responses to paragraphs 1 through 20 as set forth above.

34. Admitted.

35. Denied.

36. Denied.

37. Denied.

38. Denied.

39. Denied.

40. Denied.

Affirmative Defenses

41. Defendant affirmatively alleges that recovery from it is limited by the terms, conditions, provisions and monetary caps of Florida Statute §768.28.

42. Defendant affirmatively alleges that it exercised reasonable care to prevent and correct any discriminatory or retaliatory conduct.

43. Defendant affirmatively alleges that the Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by the Defendant.

44. Defendant affirmatively alleges that no similarly situated employees, outside of the Plaintiff's protected classes, were treated more favorably than her.

45. Defendant affirmatively alleges that any and all adverse employment actions taken against the Plaintiff were based upon legitimate non-discriminatory reasons.

46. Defendant affirmatively alleges that the Plaintiff has not been subjected to any material adverse employment action since the filing of her charge of discrimination and retaliation with the FCHR and EEOC.

47. Defendant affirmatively alleges that any adverse employment action taken against the Plaintiff since the filing of her charge of discrimination with the FCHR and EEOC was not causally related to the filing of such charge.

48. Defendant affirmatively asserts that the Plaintiff never engaged in statutorily protected activity.

49. Defendant affirmatively alleges that the even if the Plaintiff exercised her rights protected by the Public Whistle-Blower's Act, same was not a substantial, motivating factor in her separation of employment and the Defendant would have taken the same employment action regardless of the claimed protected exercise of rights.

50. Defendant affirmatively alleges that the Plaintiff did not disclose information regarding any violation or suspected violation of any Federal, State, or local law, rule, or regulation committed by an employee of the Defendant which created and presented a substantial and specific danger to the public's health, safety or welfare.

51. Defendant affirmatively alleges that the Plaintiff did not disclose any information of any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or abuse or gross neglect or duty committed by an employee of the Defendant.

52. Defendant affirmatively alleges that the Plaintiff did not disclose actionable information to any agency or federal government entity and the authority to investigate, police, manage, or otherwise, remedy the violation or act nor was the information disclosed to the Chief Executive Officer of the Defendant.

53. Defendant affirmatively alleges that the Florida Public Sector Whistle-Blower's Act does not provide for non-economic compensatory damages.

54. The Defendant affirmatively alleges that at all times it acted in good faith and had reasonable grounds for believing its conduct did not violate the Florida Public Sector Whistle-Blower's Act.

55. There is no temporal connection, or other evidence establishing causation between the alleged adverse employment action and asserted protected activity.

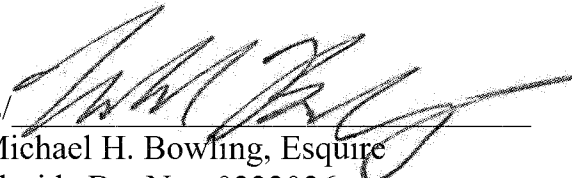
56. Defendant affirmatively alleges that this Court lacks jurisdiction over the subject matter of any claim or allegation to the extent Plaintiff's claims concern events alleged to have occurred more than the requisite 300 or 365 days before the filing of her charge of discrimination or concern events not made the subject of charges of discrimination filed with the appropriate administrative agencies, such claims are time-barred, and Plaintiff is precluded from raising issues and claims regarding those allegations because Plaintiff failed to exhaust administrative remedies and satisfy conditions precedent before filing the lawsuit.

57. Defendant affirmatively alleges that to the extent that an impermissible motive was a factor in any adverse employment action against Plaintiff, which Defendant

emphatically denies, Plaintiff's recovery is restricted because Defendant would have taken the same employment action against Plaintiff absent unlawful motivation.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of August, 2020, that a true and correct copy of the foregoing has been furnished via the Florida E-Filing Portal which will send electronic notice to: Kelly H. Chanfrau, Esquire, 701 N. Peninsula Dr., Daytona Beach, Florida 32118 (Kelly@Chanfraulaw.com; Melanie@Chanfraulaw.com; and Dahiana@Chanfraulaw.com).

/s/ 
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