

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

**TRAVIS LEE,**

**Plaintiff,**

**vs.**

**CASE NO.: 3:20-cv-00553-BJD-MCR**

**FLAGLER COUNTY SCHOOL  
BOARD,**

**Defendants.**

**DEFENDANT’S ANSWER AND AFFIRMATIVE DEFENSES TO  
PLAINTIFF’S SECOND AMENDED COMPLAINT FOR DAMAGES**

COMES NOW, Defendant, FLAGLER COUNTY SCHOOL BOARD (hereinafter “FCSB” or "Defendant"), by and through its undersigned counsel, and pursuant to the Federal Rules of Civil Procedure, hereby serves this its Answer and Affirmative Defenses to Plaintiff, TRAVIS LEE’s, Second Amended Complaint for Damages filed July 29, 2020, stating as follows:

**DEFENDANT’S ANSWER**

**I. Parties**

1. Defendant admits the allegations of paragraph 1 for jurisdictional and venue purposes only.
2. Defendant admits the allegations of paragraph 2 for jurisdictional and venue purposes only.

3. Defendant admits the allegations of paragraph 3 for jurisdictional and venue purposes only.

## **II. Jurisdiction and Venue**

4. Defendant admits the allegations of paragraph 4 for jurisdictional and venue purposes only.

5. Defendant admits the allegations of paragraph 5 for jurisdictional and venue purposes only.

6. Defendant admits the allegations of paragraph 6 for jurisdictional and venue purposes only.

## **III. Satisfaction of Conditions Precedent & Exhaustion of Administrative Remedies**

7. Defendant admits the allegations of paragraph 7 for conditions precedent and exhaustion of administrative remedies purposes only.

8. Defendant admits the allegations of paragraph 8 for conditions precedent and exhaustion of administrative remedies purposes only.

## **IV. The Nature of this Action**

9. Defendant admits the allegations of paragraph 9.

10. Defendant admits the allegations of paragraph 10.

11. Defendant denies the allegations of paragraph 11 and demands strict proof thereof.

12. Defendant denies in part the allegation of paragraph 12 that its actions entitle Lee to damages and injunctive relief; Defendant admits the remainder of the allegations of paragraph 12 for jurisdictional and venue purposes only.

13. Defendant admits the allegations of paragraph 13 for jurisdictional and venue purposes only.

#### **V. General Allegations**

14. Defendant admits the allegations of paragraph 14.

15. Defendant admits the allegations of paragraph 15.

16. Defendant admits the allegations of paragraph 16.

17. Defendant admits the allegations of paragraph 17.

18. Defendant admits the allegations of paragraph 18.

19. Defendant denies the allegations of paragraph 19, in that during the 2019-2020 school year an Assistant Principal at Belle Terre Elementary was placed on an interim basis to fill that Principal position, and as such that Principal position was not open, offered, or subject to any hiring process, applications or interviews.

20. Defendant denies the allegations of paragraph 20 and demands strict proof thereof.

21. Defendant admits the allegations of paragraph 21 for conditions precedent and exhaustion of administrative remedies purposes only.

**Count I: Discrimination in Violation of Civil Rights Act of 1964**

22. Defendant realleges its responses to paragraphs 1 through 21 as if fully set-forth herein.

23. Defendant admits the allegations of paragraph 23.

24. Defendant denies the allegations of paragraph 24 and demands strict proof thereof.

25. Defendant denies the allegations of paragraph 25 and demands strict proof thereof.

26. Defendant denies in part the allegations of paragraph 26 in that Plaintiff did not make “numerous attempts to inform” Defendant of alleged discrimination, because the first and only such complaint Defendant received from Plaintiff was his Charge of Discrimination filed with the Equal Employment Opportunity Commission (“EEOC”) referred to in paragraph 7; Defendant denies in part the allegation of paragraph 26 as worded that Plaintiff excelled in performing his functions; Defendant denies the remainder of the allegations of paragraph 26 and demands strict proof thereof.

**Count II: Discrimination in Violation of State Law**

Defendant realleges its responses to paragraphs 1 through 21 as if fully set-forth herein.

27. Defendant denies the allegations of paragraph 27 and demands strict proof thereof.

28. Defendant denies the allegations of paragraph 28 and demands strict proof thereof.

29. Defendant denies in part the allegation of paragraph 29 that it engaged in racial discrimination and disparate treatment of African-American employees; Defendant admits the remainder of the allegations of paragraph 29 in that said former Superintendent was released from his Superintendent contract in June 2019, which was one month before it was set to expire in August 2019.

30. Defendant denies in part the allegation of paragraph 30 as worded, in that said individuals were selected because each was the most qualified candidate for the position, and as such were not selected “instead” of Plaintiff; Defendant admits the remainder of the allegations of paragraph 30.

31. Defendant denies the allegations of paragraph 31 and demands strict proof thereof.

Defendant denies each and every allegation not specifically admitted herein.

**DEMAND FOR JURY TRIAL**

Defendant admits that the Plaintiff is entitled to trial by jury.

Defendant demands trial by jury and dismissal of all claims against it.

## **DEFENDANT’S AFFIRMATIVE DEFENSES**

### **First Affirmative Defense**

Plaintiff fails to state a claim upon which relief may be granted.

### **Second Affirmative Defense**

Some or all of Plaintiff’s claims are barred or reduced by his failure to exercise reasonable diligence to mitigate his alleged damages. Alternatively, any claim for damages must be reduced by any pay, benefits, or other compensation earned by Plaintiff for any period in question.

### **Third Affirmative Defense**

Although Defendant denies that it discriminated against Plaintiff in any way, to the extent it is determined that impermissible motive may have been a factor in any decision regarding Plaintiff, the same decision would have been reached based upon legitimate non-discriminatory business reasons.

### **Fourth Affirmative Defense**

Plaintiff cannot establish that Defendant’s legitimate, non-discriminatory, non-retaliatory, reasons for any of its challenged actions are pretexts for discrimination.

**Fifth Affirmative Defense**

Defendant denies that it has violated any law related to Plaintiff and denies that Plaintiff is entitled to any relief, including but not limited to the relief requested in the Second Amended Complaint.

**Sixth Affirmative Defense**

Plaintiff's claims are barred, in whole or in part, because Defendant did not act knowingly, intentionally, or with malice or reckless indifference, and Defendant did not willfully violate any law, statute or right of the Plaintiff.

**Seventh Affirmative Defense**

Plaintiff's race was not a factor or a determinative influence in any challenged decision made, or action taken, by Defendant.

**Eighth Affirmative Defense**

Defendant would have made some or all of the challenged decisions, and taken some or all of the challenged actions, even if Plaintiff lacked the protected status he alleges, and regardless of the alleged discriminatory or retaliatory motives.

**Ninth Affirmative Defense**

Defendant's decisions and actions toward Plaintiff were made in good faith and without discriminatory or retaliatory intent with the belief that same were lawful at the time so taken.

**Tenth Affirmative Defense**

Any award of compensatory damages to the Plaintiff is subject to statutory caps, including but not limited to those found under 42 U.S.C. Section 1981a and § 768.28, Fla. Stat.

**Eleventh Affirmative Defense**

Any alleged discriminatory actions by Defendant against Plaintiff that occurred prior to March 13, 2019 (i.e., more than 300 days before Plaintiff filed the Charge of Discrimination with the EEOC on January 7, 2020) are time-barred and not actionable, including those July 2018 actions referred to in paragraph 30. 42 U.S.C. § 2000e-5(e). (*See National R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 102-103 (2002)).

Respectfully submitted this 18th day of August, 2020.

s/ Dylan J. Hall, Esq.  
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Attorneys for Defendant



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 18th day of August, 2020, a true and correct copy of the foregoing, Defendant, FLAGLER COUNTY SCHOOL BOARD's, Answer and Affirmative Defenses to Plaintiff's Second Amended Complaint for Damages, was electronically filed with the Clerk of the Court by using the CM/ECF system, which will send a notice of filing via electronic mail to Blair Jackson, Esq., Jordan Law, 545 Delaney Avenue, Building 3, Orlando, FL 32801, [blair@jordanlawfl.com](mailto:blair@jordanlawfl.com), [luis@jordanlawfl.com](mailto:luis@jordanlawfl.com).

*s/ Dylan J. Hall, Esq.*  
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