

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

**MARION GRANTHAM AND
BARBARA GRANTHAM**

PLAINTIFFS

VS.

CIVIL ACTION NO.: 4:22-CV-00148-MPM-JMV

THE CITY OF GREENWOOD, MISSISSIPPI, ET AL.

DEFENDANTS

**DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES
TO PLAINTIFF'S COMPLAINT**

Defendants the City of Greenwood, Mississippi, Carolyn McAdams, individually and in her capacity as Mayor of the City of Greenwood, Mississippi, and Betty Stigler, individually and in her capacity as Director of Community Development of the City of Greenwood, Mississippi (“Defendants”), submit this Answer and Affirmative Defenses to Plaintiffs Marion Grantham and Barbara Grantham’s (“Plaintiffs”) Complaint (“complaint”).

FIRST AFFIRMATIVE DEFENSE

Plaintiffs’ complaint fails to state a claim upon which relief can be granted, in whole or in part.

SECOND AFFIRMATIVE DEFENSE

Defendants plead all applicable statutes of limitations.

THIRD AFFIRMATIVE DEFENSE

To the extent that Plaintiffs did not exhaust their pre-suit remedies or obligations for some or all of their allegations, claims, or theories, those allegations, claims, or theories may not be pursued in this action.

FOURTH AFFIRMATIVE DEFENSE

Defendants affirmatively plead that an award of punitive damages would amount to a violation of the United States and Mississippi Constitutions.

FIFTH AFFIRMATIVE DEFENSE

Defendants plead the defenses of good faith and/or honest belief.

SIXTH AFFIRMATIVE DEFENSE

To the extent applicable, Plaintiffs' claims are barred by the doctrines of collateral, equitable, and/or judicial estoppel and/or res judicata.

SEVENTH AFFIRMATIVE DEFENSE

Defendants plead after-acquired evidence.

EIGHTH AFFIRMATIVE DEFENSE

To the extent Plaintiffs have failed to comply with their duty to mitigate their request for damages, their entitlement to which is expressly denied, such damages must be reduced.

NINTH AFFIRMATIVE DEFENSE

Defendants possesses sovereign, absolute, course and scope, and/or qualified immunity herein from suit and/or liability and/or damages.

TENTH AFFIRMATIVE DEFENSE

To the extent that Plaintiffs seek special damages, such damages have not been specifically stated.

ELEVENTH AFFIRMATIVE DEFENSE

Defendants are entitled to an award of attorney's fees because this action is vexatious and was brought in bad faith.

TWELFTH AFFIRMATIVE DEFENSE

Defendants plead all statutory damage caps, including those applicable to requests for compensatory and punitive damages.

THIRTEENTH AFFIRMATIVE DEFENSE

Defendants plead the doctrine of unclean hands.

FOURTEENTH AFFIRMATIVE DEFENSE

Defendants acted in good faith at all times in their conduct toward Plaintiffs, and Plaintiffs' own actions, or the actions of a third party for whom Defendants are not responsible, were the proximate and superseding cause of any damages Plaintiffs may have sustained. Defendants invoke all applicable contribution and comparative fault principles.

FIFTEENTH AFFIRMATIVE DEFENSE

Defendants are entitled to all rights, immunities, and privileges contained in MISS. CODE ANN. § 11-46-1, et seq., including, but not limited to, all exemptions from liability set forth therein, the notice of claim requirements set forth therein, the limitations on liabilities set forth therein, and the fact that Plaintiffs are not entitled to a jury trial pursuant to said Act.

SIXTEENTH AFFIRMATIVE DEFENSE

To the extent applicable, some or all of Plaintiffs' claims, allegations, and theories are barred by the doctrine of *Heck v. Humphrey*, 512 U.S. 477 (1994).

SEVENTEENTH AFFIRMATIVE DEFENSE

While all of Defendants' decisions related to Plaintiff were taken for legitimate and nondiscriminatory reasons, Defendants affirmatively plead that, if it is found that its actions were motivated by both unlawful and lawful reasons, the lawful reasons alone would have induced Defendants to make the same decisions.

EIGHTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' alleged injuries were not caused by a policy or custom of the City of Greenwood. Therefore, there is no municipal liability under federal law.

ANSWER

Without waiving any affirmative defenses, and reserving the right to assert further affirmative defenses as they become evident through discovery or further investigation, Defendants respond to the Complaint as follows:

The first unnumbered paragraph beginning with “COME NOW . . .” does not appear to require a response, but, to the extent a response is required, Defendants deny the allegations contained within the paragraph and further deny that Plaintiffs are entitled to any relief whatsoever.

PARTIES TO THIS ACTION

1. Defendants deny the allegations contained in paragraph 1 of the complaint for lack of sufficient information.
2. In response to the allegations contained in paragraph 2 of the complaint, Defendant admits only that it may be served with process as required by law.
3. In response to the allegations contained in paragraph 3 of the complaint, Defendant admits only that she may be served with process as required by law.
4. In response to the allegations contained in paragraph 4 of the complaint, Defendant admits only that she may be served with process as required by law.

ALLEGATIONS OF FACT

5. Defendants deny the allegations contained in paragraph 5 of the complaint for lack of sufficient information.
6. Defendants deny the allegations contained in paragraph 6 of the complaint.
7. Defendants admit the allegations contained in paragraph 7 of the complaint.
8. Defendants deny the allegations contained in paragraph 8 of the complaint as stated.
9. Defendants deny the allegations contained in paragraph 9 of the complaint for lack of sufficient information.

10. Defendants deny the allegations contained in paragraph 10 of the complaint for lack of sufficient information.

11. Defendants deny the allegations contained in paragraph 11 of the complaint.

12. Defendants deny the allegations contained in paragraph 12 of the complaint.

13. Defendants deny the allegations contained in paragraph 13 of the complaint.

14. Defendants deny the allegations contained in paragraph 14 of the complaint as characterized.

CAUSES OF ACTION

15. Defendants deny the allegations contained in paragraph 15 of the complaint.

16. Defendants deny the allegations contained in paragraph 16 of the complaint.

17. Defendants deny the allegations contained in paragraph 17 of the complaint.

Damages

18. Defendants deny the allegations contained in paragraph 18 of the complaint and further deny that Plaintiffs are entitled to any relief whatsoever.

Defendants deny the allegations contained in the unnumbered paragraph beginning with “Wherefore, premises considered ...”, and Defendants further deny that Plaintiff is entitled to any relief whatsoever.

Consistent with the answers and affirmative defenses set forth herein, Defendants request that the complaint be dismissed, with all costs taxed to Plaintiff and an award of attorney’s fees be provided to Defendants.

THIS the 27th day of October, 2022.

Respectfully submitted,

PHELPS DUNBAR LLP

BY: /s/ Mallory K. Bland

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that, on October 27, 2022, I had this Answer and Affirmative Defenses electronically filed with the Clerk of the Court, using the CM/ECF system, which sent notification of such filing to all counsel of record.

/s/ Mallory K. Bland

Mallory K. Bland