

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

BERTRAM KEYS

PLAINTIFF

VS.

CIVIL ACTION NO.: 4:19-CV-048-SA-JMV

**CITY OF GREENWOOD, MISSISSIPPI,
ET AL.**

DEFENDANTS

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

Defendants, City of Greenwood, Mississippi, James C. Layton, in his individual capacity, Byron L. Granderson, in his individual capacity, Dylan H. Peden, in his individual capacity, Lenard Paige, in his individual capacity and Ray Moore, in his official capacity (herein collectively referred to as "Municipal Defendants"), respectfully submit this their Answer and Affirmative Defenses to Plaintiff's Complaint [Doc. 1] ("Complaint"), as follows:

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Municipal Defendants plead all applicable statutes of limitations.

THIRD AFFIRMATIVE DEFENSE

Punitive damages cannot be assessed against the City of Greenwood, Mississippi or Defendant Moore in his official capacity.

FOURTH AFFIRMATIVE DEFENSE

While denying that Plaintiff is entitled to punitive damages, Municipal Defendants affirmatively plead that an award of punitive damages in an amount in excess of that proportion permitted by the laws of the United States would violate the Due Process protections of the U.S.

Constitution. Further, Mississippi laws and procedures governing punitive damages are violative of the 6th Amendment, 8th Amendment, the Due Process Clause and Equal Protection Clause of the 14th Amendment, and other provisions, of the United States Constitution in Article III, Section 14 and other provisions of the Constitution of the State of Mississippi.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's alleged injuries were not caused by a policy or custom of the City of Greenwood, Mississippi. Therefore, there can be no municipal liability under federal law.

SIXTH AFFIRMATIVE DEFENSE

Defendants Layton, Granderson, Peden, and Paige are entitled to qualified immunity from Plaintiff's federal law claims brought through 42 U.S.C. § 1983 because their conduct did not violate clearly established constitutional rights of which a reasonable person would have known.

SEVENTH AFFIRMATIVE DEFENSE

Municipal Defendants assert all affirmative defenses that are or may become available or of which Defendant may become aware (upon further investigation or discovery) under FED. R. Civ. P. 8(c).

EIGHTH AFFIRMATIVE DEFENSE

Municipal Defendants assert all affirmative defenses that are or may become available or of which Defendant may become aware (upon further investigation or discovery) under FED. R. Civ. P. 12(b).

NINTH AFFIRMATIVE DEFENSE

Municipal Defendants reserve their right to assert any other affirmative defenses that become known during further investigation and/or discovery in this matter.

ANSWER

Without waiving any of the aforementioned Affirmative Defenses, Municipal Defendants respond to the Complaint as follows:

Municipal Defendants admit Plaintiff has brought his claims under the Fourth and Fourteenth Amendments to the United States Constitution—by and through 42 U.S.C. § 1983. All remaining allegations contained in the first, unnumbered paragraph of Plaintiff’s Complaint beginning “Plaintiff Bertram (Bert) Keys...” are denied.

I. JURISDICTION

1. Municipal Defendants admit this Court has subject matter jurisdiction and that venue is proper in this Court. All remaining allegations contained in Paragraph 1 of Plaintiff’s Complaint are denied.

II. PARTIES

2. Municipal Defendants are without information sufficient to admit or deny the allegations contained in Paragraph 2 of Plaintiffs’ Complaint and, therefore, deny the same.

3. Municipal Defendants admit the City of Greenwood, Mississippi is a municipality within the State of Mississippi. All remaining allegations contained in Paragraph 3 of Plaintiff’s Complaint are denied.

4. Municipal Defendants deny the allegations contained in Paragraph 4 of Plaintiff’s Complaint.

5. Municipal Defendants deny the allegations contained in Paragraph 5 of Plaintiff’s Complaint.

6. Municipal Defendants deny the allegations contained in Paragraph 6 of Plaintiff’s Complaint.

7. Municipal Defendants deny the allegations contained in Paragraph 7 of Plaintiff's Complaint.

8. Municipal Defendants deny the allegations contained in Paragraph 8 of Plaintiff's Complaint.

9. Municipal Defendants deny the allegations contained in Paragraph 9 of Plaintiff's Complaint.

10. Municipal Defendants deny the allegations contained in Paragraph 10 of Plaintiff's Complaint.

III. FACTS

11. Municipal Defendants deny the allegations contained in Paragraph 11 of Plaintiff's Complaint.

12. Municipal Defendants deny the allegations contained in Paragraph 12 of Plaintiff's Complaint.

13. Municipal Defendants deny the allegations contained in Paragraph 13 of Plaintiff's Complaint.

14. Municipal Defendants deny the allegations contained in Paragraph 14 of Plaintiff's Complaint.

15. Municipal Defendants deny the allegations contained in Paragraph 15 of Plaintiff's Complaint.

16. Municipal Defendants deny the allegations contained in Paragraph 16 of Plaintiff's Complaint.

17. Municipal Defendants deny the allegations contained in Paragraph 17 of Plaintiff's Complaint.

18. Municipal Defendants deny the allegations contained in Paragraph 18 of Plaintiff's Complaint.

19. Municipal Defendants deny the allegations contained in Paragraph 19 of Plaintiff's Complaint.

20. Municipal Defendants deny the allegations contained in Paragraph 20 of Plaintiff's Complaint.

21. Municipal Defendants deny the allegations contained in Paragraph 21 of Plaintiff's Complaint.

22. Municipal Defendants deny the allegations contained in Paragraph 22 of Plaintiff's Complaint.

23. Municipal Defendants deny the allegations contained in Paragraph 23 of Plaintiff's Complaint.

24. Municipal Defendants deny the allegations contained in Paragraph 24 of Plaintiff's Complaint as stated.

25. Municipal Defendants deny the allegations contained in Paragraph 25 of Plaintiff's Complaint.

26. Municipal Defendants deny the allegations contained in Paragraph 26 of Plaintiff's Complaint.

27. Municipal Defendants admit Plaintiff has attached purported Orders as Exhibits "A" and "B" to his Complaint. All remaining allegations contained in Paragraph 27 of Plaintiff's Complaint are denied.

IV. DAMAGES

28. Municipal Defendants deny the allegations contained in Paragraph 28 of Plaintiff's Complaint.

V. CLAIMS

(FOURTH AND FOURTEENTH AMENDMENTS)

29. Municipal Defendants deny the allegations contained in Paragraph 29 of Plaintiff's Complaint.

VI. REQUESTED RELIEF

30. Municipal Defendants deny the allegations contained in Paragraph 30 of Plaintiff's Complaint.

WHEREFORE, PREMISES CONSIDERED, having answered the allegations contained in the Complaint filed against them and having set forth their affirmative defenses herein, Municipal Defendants deny they are liable to Plaintiff or anyone else for any damages or relief whatsoever and respectfully request that the Complaint filed against these Defendants be dismissed, with prejudice, in its entirety and that Plaintiff and his counsel take nothing of or from Municipal Defendants.

Dated: June 20, 2019.

Respectfully submitted,

PHELPS DUNBAR, LLP

BY: /s/ Jason T. Marsh

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**ATTORNEYS FOR MUNICIPAL
DEFENDANTS**

CERTIFICATE OF SERVICE

I, JASON T. MARSH, do hereby certify that on June 20, 2019 I electronically filed the above and foregoing *MUNICIPAL DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT* with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following counsel of record:

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ATTORNEYS FOR PLAINTIFF

SO CERTIFIED, this the 20th day of June, 2019.

/s/ Jason T. Marsh

JASON T. MARSH