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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

1. SHELBY HAGGARD, an individual,)	
)	
Plaintiff,)	Case No. 09-CV-323-GKF-FHM
v.)	
)	JURY TRIAL DEMANDED
1. BOARD OF COUNTY COMMISSIONERS)	ATTORNEY'S LIEN CLAIMED
OF THE COUNTY OF DELAWARE;)	FOR THE FIRM
2. DELAWARE COUNTY E911 TRUST)	
AUTHORITY,)	
)	
Defendants.)	

FIRST AMENDED COMPLAINT

The Plaintiff, Shelby Haggard, ("Haggard") by and through her attorney of record, Charles C. Vaught of *Armstrong & Lowe, P.C.* hereby submits her Complaint against the above-captioned Defendants and would allege and state as follows:

STATEMENT OF JURISDICTION AND VENUE

1. This action arises under *42 U.S.C. § 2000e-3(a)*, Title VII of the Civil Rights Act, Oklahoma Statute title 40 sections 165 1, *et seq* , and the common law of the State of Oklahoma.
2. Plaintiff is and was, at all times relevant hereto, a resident of the State of Oklahoma residing in Jay, Delaware County, Oklahoma
3. Plaintiff was, at all time relevant hereto, an "employee" as defined in *40 O.S. § 165.1 et seq*.
4. Defendants are, and were at all times relevant to this cause of action, government authorities in the State of Oklahoma doing business in, and with significant contacts to, the State of Oklahoma maintaining offices in Delaware County, Oklahoma.
5. Defendants are, and were at all times relevant hereto, "employers" as defined in *40 O.S. §*

165.1 et seq.

6. The acts and/or omissions giving rise to this lawsuit occurred in Delaware County, State of Oklahoma.

7. This court has jurisdiction over the parties and the subject matter of this action pursuant to *28 U.S.C. §§ 1331, 1343 and 1367.*

8. Pursuant to *28 U.S.C. §1391(b)* this action properly lies in the Northern District of Oklahoma, because a substantial part of the events or omissions giving rise to this claim occurred in this judicial district.

Defendants are employers as defined by *42 U.S.C. § 2000e(b)*, in that at all relevant times to the filing of this cause of action, Defendants have employed in excess of fifteen (15) employees, during each of twenty (20) or more calendar workweeks in the current preceding calendar year.

10. Plaintiff was employed by Defendants all times relevant to this action.

11. Plaintiff is an employee as defined by *42 U.S.C. § 2000e(f)*, in that she is an individual employed by an employer.

12. In conformance with Title VII statutory prerequisites, Plaintiff submitted pre-charge information with the United States Equal Employment Opportunity Commission ("EEOC"). Subsequently, Plaintiff submitted a Charge of Discrimination to the EEOC. The EEOC completed its investigation and issued a Right to Sue letter on March 24, 2009, (attached as an Exhibit 1 hereto and hereby incorporated by reference as though fully set forth herein).

13. In conformance with Oklahoma Statutory pre-requisites, on June 17, 2008, Plaintiff submitted a GTCA Notice to Defendants pursuant to the Governmental Tort Claims Act and

exhausted her obligations under that statute and now brings this action.

BACKGROUND FACTS RELEVANT TO THIS ACTION

14. Plaintiff began employment as an E911 Dispatcher with the Delaware County Sheriff's Department and the Delaware County E911 Trust Authority on March 19, 2004 and was promoted to supervisor over E911 Dispatch on October 16, 2006.
15. From October 16, 2006 to January 23, 2008, Plaintiff's immediate supervisor was Don Murphy, head of Delaware County E911 and Delaware County E911 Dispatch.
16. In December 2006, Mr. Murphy hired Kerri Fox and Joey Lambert as dispatchers. Subsequently, Kerri Fox started missing work and resigned in January 24, 2007. In March 2007, Mr. Murphy hired Amanda Andrews as a custodian. As supervisor over E911, Plaintiff was in charge of submitting the time records to the County for payroll purposes.
17. On January 29, 2007, Plaintiff became aware from Sheriff Jay Blackfox that Don Murphy went to the residence of Kerri Fox and attempted to kiss her. Plaintiff reported this to the Assistant E911 Coordinator, Tracy Sixkiller. Sheriff Jay Blackfox advised Plaintiff said that he was going to take care of this and wanted to let her know what has been going on so that Plaintiff would not be in a situation where she was alone with Don Murphy.
18. In May 2007, Plaintiff became aware that Joey Lambert was uncomfortable being alone with Mr. Murphy. Plaintiff reported this to Sheriff Jay Blackfox, who did not take any action since Joey Lambert had not made a complaint to him.
19. In May 2007, Plaintiff began informing Mr. Murphy that Ms. Andrews and Ms. Lambert were each in the negative as to time owed to the County for time not worked.
20. Again in September 2007, Plaintiff informed Mr. Murphy that Ms. Andrews and Ms.

Lambert were each in the negative as to time owed to the County for time not worked. Mr. Murphy instructed Plaintiff to shred the time records because he did not want to dock Ms. Andrews or Ms. Lambert's pay. As Plaintiff had already submitted the time records to the County, she refused to shred the time records. Subsequently, Mr. Murphy began falsifying the time cards so that Ms. Andrews and Ms. Lambert would not get docked any pay.

21. In October 2007, Sheriff Jay Blackfox advised Plaintiff that Joey Lambert had made a complaint of sexual harassment against Don Murphy. According to Sheriff Blackfox, Ms. Lambert complained that Mr. Murphy had been calling her and came to her residence which made her uncomfortable and she felt Mr. Murphy was expecting more than monetary repayment for a loan he assisted in obtaining for her. Ms. Lambert also reported to Sheriff Blackfox that Mr. Murphy had previously hugged her and attempted to kiss her while she was at work. Plaintiff spoke with Joey Lambert the next day and she confirmed that she made a complaint against Don Murphy. The incident was to be handled by the Sheriff as to reporting the incident to the E911 Trust Authority and the Board of County Commissioners for Delaware County.

22. On October 8, 2007, Plaintiff reported Joey Lambert's sexual harassment complaints against Mr. Murphy to the Commissioners Dave Kendrick, Billy Cornell and Kenny Crowder and to Sheriff Jay Blackfox. I also reported the sexual harassment of Joey Lambert by Mr. Murphy to the District Attorney's office, Attorney Nick Lelacus, in November 2007. Plaintiff subsequently met with Nick Lelacus three times in regard to the sexual harassment and the time card issue in which falsified time records were submitted to the County by Mr. Murphy.

23. The County approached Mr. Murphy regarding the time owed the County by Ms. Andrews and Ms. Lambert. Mr. Murphy personally donated his personal time to cover the time not worked by Ms. Andrews and Ms. Lambert.
24. Mr. Murphy later informed Plaintiff that her report regarding the falsified time cards cost him over \$3,000 in personal time and that she should not have submitted the time records to the County.
25. On November 7, 2007, as a result, Mr. Murphy stated that Plaintiff's trustworthiness was in question, took her off the work schedule for November 2007, demoted her back to dispatcher and used her comp time to cover the days she was not scheduled to work.
26. Due to this retaliation by Mr. Murphy, Plaintiff sought medical treatment for stress.
27. On December 3, 2007, the Commissioner reinstated Plaintiff back to E911 Dispatch Supervisor to begin on December 5, 2007, to resume the duties she previous held and reimbursed her for 91 hours of the comp hours. Plaintiff was not reimbursed for the 132 hours that Mr. Murphy used for the time he took her off the schedule in November 2007.
28. Upon returning to work, Plaintiff learned that Mr. Murphy had changed her duties. Plaintiff was informed she no longer had authority in the hiring process or discipline of dispatchers and had limited access to anything concerning employees. Further, Plaintiff was told she would no longer be in charge of OLETS or ODIS, but was to confirm warrants with the jail. Also Don Murphy segregated Plaintiff from the dispatchers and set up a table with a computer in the equipment room where he said he could keep an eye on her.
29. Through the remainder of Plaintiff's employment, Don Murphy sat behind her and watched her work, he would not speak to her and spoke to her in an angry voice. Subsequently, Mr.

Murphy confronted Plaintiff with administrative issues in front of the dispatchers and always had a dispatcher witness their conversations.

30. On January 17, 2008, Mr. Murphy accused Plaintiff of incorrectly calculating comp time and instructed her to consult with the County Clerk regarding the labor laws. Immediately afterwards, Plaintiff was summoned by Commissioner Cornell and told to follow the chain of command when making complaints.

31. Even though Plaintiff had not made any complaints to the County Clerk, she was advised by Commissioner Crowder and Sheriff Blackfox to give a statement to Ron Teel regarding Mr. Murphy.

32. On January 23, 2008, authority over the Delaware County E911 program was transferred from the Delaware County E911 Trust Authority to the Board of County Commissioners of Delaware County by vote of the County Commissioners.

33. On January 23, 2008, Plaintiff was terminated from employment by the Commissioners stating that information had been provided to them that supported her termination.

34. Plaintiff was retaliated against by the Defendants' agents and/or employees for reporting Don Murphy's sexual harassment of her dispatchers and for reporting Mr. Murphy's falsification of time cards and improper payment practices.

35. As a result of these reports, Plaintiff:

- a. was informed that her trustworthiness was in question;
- b. was taken off the work schedule for November 2007;
- c. demoted to dispatcher;
- d. had comp time used without her permission to cover the days she was removed from

the schedule;

- e. had her duties changed in that she no longer had authority in the hiring process or discipline of dispatchers and had limited access to anything concerning employees;
- f. was no longer be in charge of OLETS or ODIS, but was to confirm warrants with the jail.
- g. was segregated from the dispatchers
- h. was moved to a table with a computer in the equipment room;
- i. was subjected to intense scrutiny by Don Murphy;
- j. was spoken to in a hostile tone by Murphy;
- k. was falsely accused of incorrectly calculating comp time;
- l. was falsely accused of making complaints to the County Clerk;
- m. was disciplined for behavior she did not do; and
- n. was terminated on January 23, 2008.

**FIRST CLAIM:
VIOLATION OF TITLE VII – RETALIATION**

- 36. Plaintiff realleges and incorporates the foregoing paragraphs as if fully set forth herein and further alleges as follows:
- 37. Plaintiff notified her supervisors of a sexual harassment complaint involving her immediate supervisor and, thereby, became entitled to the protections afforded to employees who participate in covered proceedings.
- 38. Subsequent to her participation in a covered proceeding, Plaintiff was subjected to adverse action, to wit: retaliation and termination from employment.

39. Plaintiff was subjected to a hostile work environment and terminated in retaliation for forwarding a sexual harassment complaint against her immediate supervisor.

40. The reasons proffered by the Defendants for the adverse action taken against Plaintiff are false and pretextual in nature and are only offered for the purpose of concealing its true reason for terminating her, which was to retaliate against her for engaging in activity protected by Title VII of the Civil Rights Act.

41. The conduct complained of constitutes illegal retaliation in violation of Title VII of the Civil Rights Act, *42 U.S.C. § 2000e-3(a)*.

WHEREFORE, Plaintiff prays for judgment against Defendants for all available equitable damages, including back pay and front pay, and all available compensatory damages, including damages for emotional distress, mental pain and suffering, embarrassment, humiliation (past and future), loss of future earning capacity, loss of enjoyment of life, inconvenience, and punitive damages. Plaintiff further prays for declaratory judgment and requests this Court declare the conduct of the Defendants to be in violation of Plaintiff's rights. Plaintiff also prays for prejudgment interest, an assessment of damages to compensate for any tax consequences of this judgment, and a reasonable attorney's fee and the costs of this action, to be taxed against Defendants and an award of all other proper relief deemed just and equitable by the Court.

SECOND CLAIM:

WRONGFUL TERMINATION IN VIOLATION OF OKLAHOMA PUBLIC POLICY

42. Plaintiff realleges and incorporates the foregoing paragraphs as if fully set forth herein and further alleges as follows:

43. Plaintiff was terminated by Defendants.

44. A motivating reason behind Plaintiff's termination was Defendants' intent to retaliate against Plaintiff for filing a claim against Defendants with the Oklahoma Department of Labor.
45. As recognized by *Burk v. K-Mart Corp.*, 1989 OK 22 ¶ 20, 770 P.2d 24, such a termination violates a clear mandate of public policy sufficient to support a wrongful termination claim.
46. A motivating reason behind Plaintiff's termination was Defendants' intent to retaliate against Plaintiff for engaging in activity protected by Oklahoma Public Policy.
47. As recognized by *Collier v. Insignia Financial Group*, 1999 OK 49, 981 P.2d 321; *Saint v. Data Exchange, Inc.*, 2006 OK 59, 145 P.3d 1037; and *Shirazi v. Childtime Learning Center, Inc.*, 2009 OK 13, __ P.3d __, Plaintiff is protected by Oklahoma Public Policy for reporting the sexually harassing behavior of her immediate supervisor to his superiors.

WHEREFORE, Plaintiff prays for judgment against Defendants for all available equitable damages, including back pay and front pay, and all available compensatory damages, including damages for emotional distress, mental pain and suffering, embarrassment, humiliation (past and future), loss of future earning capacity, loss of enjoyment of life, inconvenience, and punitive damages. Plaintiff further prays for declaratory judgment and requests this Court declare the conduct of the Defendants to be in violation of Plaintiff's rights. Plaintiff also prays for prejudgment interest, an assessment of damages to compensate for any tax consequences of this judgment, and a reasonable attorney's fee and the costs of this action, to be taxed against Defendants and an award of all other proper relief deemed just and equitable by the Court.

THIRD CLAIM:
RECOVERY OF UNPAID WAGES PURSUANT TO 40 O.S. § 165.9

Plaintiff realleges and incorporates the foregoing paragraphs as if fully set forth herein and further alleges as follows:

48. At all times relevant to the filing of this cause of action, *40 O.S. § 165.9 et seq.* prohibited an employer from refusing to pay wages earned by an employee.
49. Defendants terminated Plaintiff and refused to pay the full amount of wages earned at the time of her termination.
50. The aforementioned refusal was in direct violation of *40 O.S. §§ 165.1 et seq.*
51. As a direct and proximate result of Defendants' willful violation of *40 O.S. §§ 165.1, et seq.*, Plaintiff has suffered, and continues to suffer, loss of income in an amount to be determined.
52. Pursuant to *40 O.S. § 165.9*, Plaintiff is also entitled to liquidated damages for Defendants' failure to pay wages; costs and fees of any nature; and reasonable attorneys fees for bringing this action.

WHEREFORE, Plaintiff prays for judgment against Defendants for all available equitable damages, including unpaid wages, and all available liquidated damages. Plaintiff further prays for declaratory judgment and requests this Court declare the conduct of the Defendants to be in violation of Plaintiff's rights. Plaintiff also prays for prejudgment interest, an assessment of damages to compensate for any tax consequences of this judgment, and a reasonable attorney's fee and the costs of this action, to be taxed against Defendants and an award of all other proper relief deemed just and equitable by the Court.

**FOURTH CLAIM:
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

Plaintiff realleges and incorporates the foregoing paragraphs as if fully set forth herein and further alleges as follows:

- 53. That Defendants intentionally engaged in outrageous discriminatory conduct against Plaintiff.
- 54. That Defendants knew or should have known that such outrageous discriminatory conduct would cause Plaintiff severe emotional distress.
- 55. That Defendants' discriminatory conduct was extreme and outrageous and goes beyond all possible bounds of decency in a civilized community.
- 56. That as a result of Defendants' intentional, willful, malicious and reckless conduct, Plaintiff suffered severe emotional distress.

WHEREFORE, premises considered, Plaintiff prays this Court grant her judgment against Defendants for actual and compensatory damages, declaratory and injunctive relief, prejudgment interest, cost and attorney fees, an assessment of damages to compensate for any tax consequences of this judgment and for any such other legal or equitable relief this Honorable Court deems just and proper.

Respectfully Submitted,

ARMSTRONG & LOWE, P.C.

A handwritten signature in cursive script, reading "Charles C. Vaught", is written over a horizontal line.

Charles C. Vaught, OBA #19962

1401 South Cheyenne

Tulsa, Oklahoma 74119-3440

(918) 582-2500

(918) 388-0100 (facsimile)

Attorney for Plaintiff

03-24-2009 09:16 From-

4052314340

T-294 P 001/001 F-613

EEOC Form 161 (2/08)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To **Shelby D. Haggard**
Po Box 1023
Jay, OK 74346

From **Oklahoma City Area Office**
215 Dean A. McGee Avenue
Suite 524
Oklahoma City, OK 73102



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No

EEOC Representative

Telephone No

564-2008-01590

Kathy A. Nusz,
Investigator

(405) 231-5827

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC



Your allegations did not involve a disability as defined by the Americans With Disabilities Act



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes



Your charge was not timely filed with EEOC, in other words you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** of your receipt of this notice or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Enclosures(s)

Kathy Nusz
Lloyd J. Vasquez,
Area Office Director

March 10, 2009

(Date Mailed)

cc

Jay Blackfox
Sheriff
DELAWARE COUNTY SHERIFFS DEPT
327 S. 5th Street
P.O. Box 426
Jay, OK 74346

Charles C. Vaught
1401 S. Cheyenne
Tulsa, OK 74119

Jodi S. Casey
Collins, Zorn & Wagner
429 N. E. 50th
Oklahoma City, OK, 73105



received
 3-16-09

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1. SHELBY HAGGARD, an individual,)	
)	
Plaintiff,)	
)	
vs)	Case No.09-323-GKF-TLK
)	
1. BOARD OF COUNTY COMMISSIONERS OF)	Jury Trial Demanded
THE COUNTY OF DELAWARE;)	
2. DELAWARE COUNTY E911 TRUST AUTHORITY,)	
)	
Defendants.)	

**AMENDED ANSWER OF DEFENDANT DELAWARE COUNTY E911
TRUST AUTHORITY**

Comes now the Defendant Delaware County E911 Trust Authority (Trust), and for its Amended Answer to the Plaintiff's First Amended Complaint (Doc. #5) as its exists after the dismissal by Plaintiff of Causes of Action two and four, states and alleges:

1. The Trust admits Plaintiff is attempting to assert claims pursuant to the legal provisions outlined in paragraph number 1 of Plaintiff's First Amended Complaint. However, the Trust denies Plaintiff has stated a claim sufficient to invoke such remedy.

2. The Trust is without sufficient information upon which to form a belief as to the veracity of the allegations contained in paragraph 2 of the First Amended Complaint, and therefore denies the same.

3. The Trust is without sufficient information upon which to form a belief as to the veracity of the allegations contained in paragraph 3 of the First Amended Complaint, and therefore denies the same.

4. The Trust admits the allegations contained in paragraph 4 of the First Amended

Complaint.

5. The Trust denies the allegations contained in paragraph 5 of the First Amended Complaint.

6. The Trust denies that the acts and/or omissions alleged by the Plaintiff took place, but admits that the Plaintiff's allegation is that the acts and/or omissions occurred in Delaware County, State of Oklahoma.

7. The Trust admits this Court would have jurisdiction over the parties and the subject matter of this action, if Plaintiff had stated a claim. However, it is denied that Plaintiff has stated a claim sufficient to invoke this Court's jurisdiction.

8. The Trust denies that the acts and/or omissions alleged by the Plaintiff took place, but admits that the Plaintiff's allegation is that acts and/or omissions occurred in the Northern District of Oklahoma.

9. The Trust denies the allegations contained in the unnumbered paragraph 9 of the First Amended Complaint.

10. The Trust denies the allegations contained in paragraph 10 of the First Amended Complaint.

11. The Trust denies the allegations contained in paragraph 11 of the First Amended Complaint, as phrased, to the extent it refers to the Trust as Plaintiff's employer.

12. The Trust denies all of the allegations contained in paragraph 12 of the First Amended Complaint, as phrased. The Trust, however, admits the EEOC issued a Dismissal and Notice of Rights letter to the Plaintiff on March 10, 2009.

13. The Trust admits Plaintiff submitted a GTCA Notice pursuant to the Governmental Tort

Claims Act on June 17, 2008. the Trust denies the remaining allegations contained in paragraph 13 of the First Amended Complaint.

14. The Trust denies the allegations contained in paragraph 14 of the First Amended Complaint, as stated.

15. The Trust admits that from October 16, 2006 to January 23, 2008 Don Murphy was a supervisor of the Plaintiff; the Trust denies all remaining and inconsistent allegations contained in paragraph 15 of the First Amended Complaint.

16. The Trust objects to paragraph 16 of the First Amended Complaint as in violation of Rule 10(b). Without waiving any objections, the Trust denies the allegations contained in paragraph 16 of the First Amended Complaint.

17. The Trust objects to paragraph 17 of the First Amended Complaint as in violation of Rule 10(b). Without waiving any objections, the Trust denies the allegations contained in paragraph 17 of the First Amended Complaint.

18. The Trust is without sufficient information upon which to form a belief as to the veracity of the allegations contained in paragraph 18 of the First Amended Complaint and denies the same.

19. The Trust denies the allegations contained in paragraph 19 of the First Amended Complaint.

20. The Trust objects to paragraph 20 of the First Amended Complaint as in violation of Rule 10(b). Without waiving any objections, the Trust denies the allegations contained in paragraph 20 of the First Amended Complaint.

21. The Trust objects to paragraph 21 of the First Amended Complaint as in violation of Rule 10(b). Without waiving any objections, the Trust is without sufficient information upon which

to form a belief as to the veracity of the allegations contained in paragraph 21 and therefore denies the same.

22. The Trust denies the allegations contained in paragraph 22 of the First Amended Complaint.

23. The Trust denies the allegations contained in paragraph 23 of the First Amended Complaint.

24. The Trust denies the allegations contained in paragraph 24 of the First Amended Complaint.

25. The Trust denies the allegations contained in paragraph 25 of the First Amended Complaint as stated.

26. The Trust is without sufficient information upon which to form a belief as to the veracity of the allegations contained in paragraph 26 of the First Amended Complaint and therefore denies the same.

27. The Trust denies the allegations contained in paragraph 27 of the First Amended Complaint.

28. The Trust objects to paragraph 28 of the First Amended Complaint as in violation of Rule 10(b). Without waiving any objections, the Trust denies the allegations stated in paragraph 28.

29. The Trust objects to paragraph 29 of the First Amended Complaint as in violation of Rule 10(b). Without waiving any objections, the Trust denies the allegations stated in paragraph 29.

30. The Trust denies the allegations contained in paragraph 30 of the First Amended Complaint as stated.

31. The Trust denies the allegations contained in paragraph 31 of the First Amended

Complaint as stated.

32. The Trust denies the allegations contained in paragraph 32 of the First Amended Complaint as stated.

33. In response to paragraph 33 of the First Amended Complaint, the Trust admits that Plaintiff was terminated from employment by the Commissioners and denies all remaining and inconsistent allegations as stated.

34. The Trust denies the allegations contained in paragraph 34 of the First Amended Complaint.

35. The Trust objects to paragraph 35 of the Plaintiff's First Amended Complaint as in violation of Rule 10(b). Without waiving any objections, the Trust is without sufficient information upon which to form a belief as to veracity of the allegations contained in paragraph 35 and therefore denies the same.

36. In response to paragraph 36 of the First Amended Complaint, the Trust adopts all responses herein as if fully set forth in this paragraph.

37. The Trust denies the allegations contained in paragraph 37 of the First Amended Complaint.

38. The Trust denies the allegations contained in paragraph 38 of the First Amended Complaint.

39. The Trust denies the allegations contained in paragraph 39 of the First Amended Complaint.

40. The Trust denies the allegations contained in paragraph 40 of the First Amended Complaint.

41. The Trust denies the allegations contained in paragraph 41 of the First Amended Complaint.

42. The Trust objects to paragraph 48 as not stating any allegation of fact; however, to the extent the Court deems the paragraph to contain an allegation of fact, the Trust denies the same.

43. The Trust denies the allegations contained in paragraph 49 of the First Amended Complaint.

44. The Trust denies the allegations contained in paragraph 50 of the First Amended Complaint.

45. The Trust denies the allegations contained in paragraph 51 of the First Amended Complaint.

46. The Trust denies the allegations contained in paragraph 52 of the First Amended Complaint.

Affirmative Defenses

47. The Plaintiff has failed to state a cause of action against the Trust upon which she can recover.

48. The Trust was not the Plaintiff's employer.

49. The Trust does not qualify as an employer under Title VII.

50. The Trust is not a proper party to Plaintiff's Title VII claims, as the Plaintiff was not employed by the Trust.

51. Plaintiff has failed to state a claim for recovery of unpaid wages as the Trust was not the Plaintiff's employer during relevant periods and did not owe Plaintiff any unpaid wages.

52. The same decisions would have been reached concerning Plaintiff's employment even

in the absence of her alleged protected activity.

53. To the extent Plaintiff properly and timely notified the governmental employer of alleged discriminatory or harassing activity, the governmental employer took prompt and appropriate remedial action to address and resolve such complaint.

54. Plaintiff failed to mitigate her damages.

55. Damages, if any, under Title VII are limited by the statutory cap on damages.

56. To the extent Plaintiff is complaining about conduct, to include allegations of sexual harassment, gender discrimination or retaliation, occurring since July 1, 2008, when Plaintiff filed her Charge of Discrimination, such gender discrimination and/or retaliation claims under Title VII are barred due to plaintiff's failure to exhaust mandatory Title VII administrative remedies.

57. The Plaintiff has failed to exhaust prerequisite administrative remedies in that she has wholly failed to file a charge against this Defendant.

Wherefore, having fully answered the Plaintiff's allegations, the Trust prays that the Plaintiff take nothing by virtue of her First Amended Complaint and that the Trust be granted judgment against the Plaintiff for all costs of defending this action, including a reasonable attorney's fee.

BETTY OUTHIER WILLIAMS LAW OFFICE

/s/ Betty Outhier Williams
Betty Outhier Williams, OBA# 9637
P.O. Box 87
Muskogee, OK 74402
918.687.5425 Telephone
918.687.0761 Telefax
bowlaw@sbcglobal.net

Certificate of Service

I hereby certify that on the 11th day of September, 2009, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records

currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Mr. Charles C. Vaught
cvaught@armstronglowe.com
tcraft@armstronglowe.com

Ms. Jodi S. Casey
jodi@czwglaw.com
czwg@dzwglaw.com

Ms. Jenny Lynn Evans
jenny@czwglaw.com
czwg@czwglaw.com

Mr. Christopher James Collins
cjc@czwglaw.com
czwg@czwglaw.com

Mr. John L. Blodgett
john@czwglaw.com

/s/ Betty Outhier Williams

Betty Outhier Williams

in the State of Oklahoma doing business in, and with significant contacts to, the State of Oklahoma maintaining offices in Delaware County, Oklahoma.

6. The acts and/or omissions giving rise to this lawsuit occurred in Delaware County, State of Oklahoma.
7. This court has jurisdiction over the parties and the subject matter of this action pursuant to *28 U.S.C. §§ 1331, 1343 and 1367*.
8. Pursuant to *28 U.S.C. §1391(b)* this action properly lies in the Northern District of Oklahoma, because a substantial part of the events or omissions giving rise to this claim occurred in this judicial district.
9. Defendants are employers as defined by *42 U.S.C. § 2000e(b)*, in that at all relevant times to the filing of this cause of action, Defendants have employed in excess of fifteen (15) employees, during each of twenty (20) or more calendar workweeks in the current preceding calendar year.
10. Defendants were Plaintiff's employers at all times relevant to this action.
11. Plaintiff is an employee as defined by *42 U.S.C. § 2000e(f)*, in that she was an individual employed by an employer.
12. In conformance with Title VII statutory prerequisites, Plaintiff submitted pre-charge information with the United States Equal Employment Opportunity Commission ("EEOC"). Subsequently, Plaintiff submitted a Charge of Discrimination to the EEOC. The EEOC completed its investigation and issued a Right to Sue letter on March 11, 2009, (attached as an Exhibit 1 hereto and hereby incorporated by reference as though fully set forth herein).
13. That subsequent to the filing of these proceedings, and in conformance with Title VII

statutory prerequisites, Plaintiff submitted a second pre-charge information with the United States Equal Employment Opportunity Commission (“EEOC”) alleging retaliation by virtue of a constructive discharge and racial discrimination. Subsequently, Plaintiff submitted a Charge of Discrimination to the EEOC. The EEOC completed its investigation and issued a Right to Sue letter on August 13, 2010, (attached as an Exhibit 2 hereto and hereby incorporated by reference as though fully set forth herein).

14. In conformance with Oklahoma Statutory pre-requisites, on January 7, 2010, Plaintiff submitted a second GTCA Notice to Defendants pursuant to the Governmental Tort Claims Act and exhausted her obligations under that statute and now brings this action.

BACKGROUND FACTS RELEVANT TO THIS ACTION

15. Plaintiff was employed as a E911 Dispatcher with the Delaware County Sheriff’s Department from December 1, 2006 to December 2009.
16. During Plaintiff’s employment with Defendants she was subjected to unwelcome sexual harassment committed by Don Murphy head of Delaware County E911 and Delaware County E911 Dispatch.
17. The sexual harassment complained of herein includes, without limitation, the following acts:
 - a. In December 2006, Don Murphy asked Plaintiff if she had a boyfriend.
 - b. On several other occasions, Don Murphy made the comment that she needed to get an older sugar daddy to take care of her.
 - c. On April 19, 2007, Mr. Murphy grabbed and hugged Plaintiff then leaned into her and attempted to kiss her.
 - d. Mr. Murphy called her repeatedly which also made her uncomfortable.

18. Plaintiff repeatedly advised Mr. Murphy that his attention was not wanted and that his comments made her very uncomfortable.
19. At this point, Plaintiff sought medical treatment and received medication for the anxiety and stress from the sexual harassment.
20. Between March and August 2007, Plaintiff underwent three separate surgeries. Mr. Murphy advised Plaintiff to make the time up by working extra hours.
21. Before the July 2007 surgery, Plaintiff, advised Mr. Murphy that she did not have the co-pay for the surgery and would have the surgery rescheduled. On August 9, 2007 Mr. Murphy insisted that he help her obtain a loan in order to have the surgery.
22. Subsequently, Mr. Murphy kept calling and came to her residence which made her uncomfortable. Plaintiff felt Mr. Murphy was expecting more than monetary repayment of the loan.
23. Plaintiff reported the sexual harassment of Mr. Murphy to Detective Ron Teel and Sheriff Jay Blackfox. She also reported that Mr. Murphy had previously hugged her and attempted to kiss her.
24. Plaintiff also reported the sexual harassment to Shelby Haggard and advised that she felt uncomfortable being alone with Mr. Murphy.
25. Mr. Murphy continued to call her with the pretense of discussing the loan. Then he asked her if she was going to file sexual harassment charges against him.
26. On November 13, 2007, Mr. Murphy called to advise that he took care of the time she owed to the County for time not worked without consulting her.
27. On January 4, 2008, Mr. Murphy advised that he did not know when Plaintiff could return

to work due to filing a sexual harassment complaint against him.

28. On January 23, 2008, authority over the Delaware County E911 program was transferred from the Delaware County E911 Trust Authority to the Board of County Commissioners of Delaware County by vote of the County Commissioners.
29. On February 11, 2008 the Board of Commissioners placed Mr. Murphy on one week paid administrative leave while it investigated the sexual harassment complaint.
30. On February 15, 2008, Plaintiff was released to return to work on the night shift since Mr. Murphy would be back from leave and on the day shift.
31. Due to anxiety, a medical condition which resulted from the sexual harassment by Mr. Murphy, Plaintiff has missed work on occasion.
32. On April 21, 2008, Sherry Brown, the acting Supervisor, presented Plaintiff with an employee warning report for attendance which Plaintiff refused to sign due to policy violations, in that an elected officer was not present at the time when the warning was issued.
33. In retaliation, Plaintiff was taken off the schedule for five days and her normal schedule was reduced from working four 12-hour shifts to working two 8-hour shifts, and she was placed on probation.
34. It is Plaintiff's belief that she was being retaliated against for filing a sexual harassment complaint.
35. Subsequently, Plaintiff was placed on the schedule for every weekend and on a floating schedule which caused her to work both day and night shifts. The schedule was continually changed without notice. It is Plaintiff's belief that this was done in retaliation for filing a sexual harassment complaint.

36. It is Plaintiff's understanding that Mr. Murphy was advised not to enter the E911 Dispatch office when Plaintiff is working. However, on May 21 and 22, 2008, Mr. Murphy came to the Dispatch office and questioned her on paying back the loan.
37. Plaintiff again reported this harassment to the Sheriff's office.
38. That Plaintiff continued to be subjected to sexual harassment.
39. That on October 20, 2008, Plaintiff reported to the Sheriff that a dispatcher, Serena Bradley, would Instant Message John Brantly inappropriate messages and show them to Plaintiff. One message from Mr. Brantly stated that he wanted Ms. Bradley to "stick a dildo up his ass while he ejaculated in his hand and ate it." Ms. Bradley showed Plaintiff another message that stated that Mr. Brantly "wanted to stick the dildo up Ms. Bradley's ass."
40. Ms. Bradley would repeat these comments in the office with other employees as well and laugh and joke about it. Then others would joke and make comments to Mr. Brantly about being gay.
41. Ms. Bradley would frequently leave the office to spend time at the jail with Mr. Brantly, leaving Plaintiff in the dispatch office by herself to answer incoming calls alone.
42. Plaintiff reported this behavior to Ron Teel to no avail.
43. On December 1, 2008, Shannon Fields was working in the dispatch office and told Plaintiff that she had sex with Steve Brownnell in the dispatch office on November 29, 2008.
44. Ms. Fields described having sex with Ralph Feather on his pool table. Ms. Bradley would come to work describing a "booty call" that she went on. Plaintiff advised the two dispatchers, Serena Bradley and Shannon Fields, that discussing their sex life during work was offensive and inappropriate.

45. That again in February 2009, Serena Bradley began sending Instant Messages to John Brantly, and they would call each other frequently on the telephone. Serena Bradley would then leave the dispatch office to go over to the jail where Mr. Brantly was working. Plaintiff would attempt to ignore her co-workers but their activities left her alone in the dispatch office to answer all the phones.
46. On February 24, 2009, Plaintiff advised Shannon Fields that Serena Bradley was leaving her alone in the dispatch office while she would go to the jail to meet her boyfriend during work hours.
47. Subsequently, on March 2, 2009, Serena Bradley continued to harass Plaintiff about it being her short day, that she had already taken Plaintiff's holiday and told her to leave. Later, Shannon Fields wrote Plaintiff up for leaving early.
48. On March 3, 2009, Mayor Rowley came into the dispatch office because Plaintiff had advised some callers to call back due to the circumstance that she was left alone in the dispatch office taking emergency calls and taking care of the radio traffic. Plaintiff advised him that Serena Bradley was frequently out of the office and was going over to the jail, leaving Plaintiff alone in the dispatch office. Plaintiff also advised him that she had previously reported this to Shannon Fields and the Sheriff to no avail.
49. Later that evening, Shannon Fields handed Plaintiff a disciplinary slip in front of her co-workers, for taking the short day on March 2, 2009, which was humiliating due to the manner of her actions and in retaliation for reporting Plaintiff's co-workers' unprofessional and hostile actions.
50. On March 24, 2009 and March 16, 2009, Plaintiff again reported to the Sheriff more of the

above sexually hostile work environment and retaliation against her in the dispatch office.

The Sheriff advised Plaintiff that he would take care of the situation and the write up would be removed from Plaintiff's file.

51. On April 9, 2009, Shannon Fields asked Plaintiff to move to the night shift. Plaintiff told her that the day shift was her assigned shift and that Serena Bradley should be move since she was the problem. Plaintiff believes that the dispatch office was a hostile work environment and that she was retaliated against for filing the Charge of Sexual Harassment.
52. That subsequent to filing this action and on July 6, 2009, Ron Teel wrote Plaintiff up for allegedly logging on to OLETS for personal reasons. However, Serena Bradley also logged on to OLETS but was not written up or disciplined in any way. Plaintiff believes this circumstance is retaliation for filing a lawsuit.
53. At that, the March 2, 2009 writeup had not been taken out of her file as promised by the Sheriff.
54. Plaintiff advised Ron Teel of the above-described hostile work environment and retaliation. Ron Teel stated that he had heard rumors that Plaintiff warned people when there is a warrant out for their arrest, but that he did not have any proof of these rumors. Plaintiff advised Mr. Teel that this activity was continued retaliation against her for filing the sexual harassment charge.
55. Plaintiff stressed to Mr. Teel that the hostile work environment was inappropriate and that she should not have to be subjected to this type of environment.
56. Due to the hostile work environment and retaliation, Plaintiff has had to take medical leave on numerous occasions. While off on medical leave, Serena Bradley would send her text

messages harassing her about being able to return to work. She asked if Plaintiff would return to work if this litigation was settled.

57. Upon returning to work from medical leave, Serena Bradley would ask Plaintiff questions about this litigation and whether she would return to work. Ms. Bradley would also asked Plaintiff whether or not the former supervisor, Shelby Haggard, was returning to work. Plaintiff continually advised Serena Bradley that Plaintiff could not discuss this lawsuit and did not know if Mrs. Haggard was returning to work.
58. Plaintiff reported Serena Bradley's actions to the Sheriff and requested that Serena Bradley be transferred to another shift or schedule. The Sheriff said he would take care of the situation. Subsequently, the Sheriff advised Plaintiff that Serena Bradley would not be moved because no one else wanted to work with her.
59. Plaintiff believes that she is being harassed by Shannon Fields and Serena Bradley due to the filing of the lawsuit and reporting the continuing hostile work environment and retaliation.
60. In addition to the sexually hostile work environment caused by Ms. Fields and Ms. Bradley, Ms. Rayma Mason showed Plaintiff pictures of herself on the work computer in nothing but a thong. Shortly thereafter, they started playing the "Thong" song in the dispatch office in reference to this picture.
61. Recently, Ms. Mason brought a man, Antonio (?), into the dispatch office and permitted him to walk around the office unattended. Plaintiff observed Ms. Mason kissing and groping Antonio while she was at work.
62. Plaintiff reported this sexually hostile work environment to Shannon Fields, who in turn

reported it to Ron Teel. Plaintiff was directed to write a statement as to the actions of Ms. Mason.

63. On October 15, 2009, Plaintiff received a text message stating that Shannon Fields, her supervisor, instructed Steve Brownell to make Plaintiff's life a living hell while Ms. Fields was on medical leave. Plaintiff reported this hostile work environment and retaliation to Ron Teel and advised him that she was going on nine days of medical leave.
64. In December 2009, Plaintiff was constructively discharged by virtue of the hostile work environment she was subjected to as a result of this lawsuit.

**FIRST CLAIM:
SEXUAL HARASSMENT IN VIOLATION OF TITLE VII**

65. Plaintiff hereby incorporates the preceding paragraphs as though fully set forth herein.
66. By and through, but not limited to, the events described above, Plaintiff's terms and conditions of employment were adversely affected, and a hostile work environment was created, due to the on-going sexual harassment directed towards her.
67. By and through, but not limited to, the actions described above, the Defendants have violated Title VII of the Civil Rights Act of 1964 and 1991, as amended, 42 U.S.C. §§ 2000e, *et seq.*
68. As a direct and proximate result of said actions by Defendants, Plaintiff has suffered, is now suffering, and will continue to suffer lost wages and fringe benefits, emotional pain, anxiety, inconvenience, mental anguish, loss of enjoyment of life, humiliation, and other pecuniary losses.
69. Defendants' actions were wilful and done with reckless indifference to Plaintiff's rights, thus warranting the award of punitive damages to her.

70. Plaintiff has been injured by this sexual harassment, and are entitled to compensatory and punitive damages and any other damages allowed under Title VII of the Civil Rights Act of 1964 and 1991.

WHEREFORE, Plaintiff prays for a declaration that the conduct engaged in by Defendants is in violation of Plaintiff's rights; for an award to Plaintiff for equitable relief of back salary; compensatory and punitive damages, including emotional distress, mental anguish, and humiliation, in an amount in excess of One Hundred Thousand Dollars(\$100,000.000); costs and expenses, including reasonable attorney's fees as provided for by applicable law; an assessment of damages to compensate for any tax consequences of this judgment and for any such other legal or equitable relief this Honorable Court deems just and proper.

**SECOND CLAIM:
RETALIATION IN VIOLATION OF TITLE VII**

71. Plaintiff hereby incorporates the preceding paragraphs as though fully set forth herein.
72. That as a direct and proximate result of complaining about the sexual harassment she was subjected to by Mr. Murphy, Plaintiff was retaliated against by Defendants.
73. By and through, but not limited to, the events described above, Plaintiff's terms and conditions of employment were adversely affected due to the retaliation she was subjected to.
74. That Plaintiff was constructively discharged by virtue of the hostile work environment she was subjected to while employed by Defendants.
75. As a direct and proximate result of said retaliation by Defendants, Plaintiff has suffered, is now suffering and will continue to suffer emotional pain, anxiety, inconvenience, mental

anguish, loss of enjoyment of life, humiliation and other pecuniary losses.

76. Defendants' actions were wilful and done with reckless indifference to Plaintiff's rights, thus warranting the award of punitive damages to Plaintiff.
77. Plaintiff has been injured by the retaliation complained of herein and is entitled to compensatory and punitive damages, as well as any other damages permitted, pursuant to Title VII of the Civil Rights Act of 1964 and 1991.

WHEREFORE, Plaintiff prays for a declaration that the conduct engaged in by Defendants is in violation of Plaintiff's rights; for an award to Plaintiff for compensatory and punitive damages, including emotional distress, mental anguish, and humiliation, in an amount in excess of One Hundred Thousand Dollars(\$100,000.000); costs and expenses, including reasonable attorney's fees as provided for by applicable law; an assessment of damages to compensate for any tax consequences of this judgment and for any such other legal or equitable relief this Honorable Court deems just and proper.

**THIRD CLAIM:
STATE LAW *BURK* TORT CLAIM**

78. Plaintiff hereby incorporates the preceding paragraphs as though fully set forth herein.
79. That, as a member of a protected class, to wit: victims of sexual harassment *and* a person who complain of sexual harassment and gender discrimination, Plaintiff is protected by Oklahoma Public Policy as recognized in *Collier v. Insignia Financial Group*, 1999 OK 49, 981 P.2d 321; *Saint v. Data Exchange, Inc.*, 2006 OK 59, 145 P.3d 1037; and *Shirazi v. Childtime Learning Center, Inc.*, 2009 OK 13, 204 P.3d 75.
80. That Oklahoma public policy prohibits sexual harassment in the workplace and permits an

aggrieved employee to bring a claim against an employer for permitting a hostile environment based on sexual harassment;

81. That Plaintiff was sexually harassed during her employment, between August 2008 and December 2009¹, as prohibited by Oklahoma Public Policy;
82. That Defendants ratified the acts of its agents and employees by failing to take remedial action upon notice of the circumstances or by allowing the acts to occur after receiving actual or constructive notice of those acts;
83. That the conduct complained of constitutes illegal sexual harassment in violation of Oklahoma Public Policy.
84. That in addition, Oklahoma public policy prohibits retaliation against an employee who complains of sexual harassment and discrimination in the workplace and permits an aggrieved employee to bring a claim against an employer for retaliating against said employee.
85. That Plaintiff was retaliated against during her employment, as prohibited by Oklahoma Public Policy;
86. By and through, but not limited to, the events described above, Plaintiff's terms and conditions of employment were adversely affected due to the retaliation she was subjected to.

¹Plaintiff's claim for sexual harassment in violation of Oklahoma public policy is limited to this time period given the circumstance that she voluntarily dismissed this claim on July 8, 2009 (Dkt # 18), which dismissal covered the alleged events of sexual harassment which occurred prior to August 2008.

87. That Plaintiff was constructively discharged by virtue of the hostile work environment she was subjected to while employed by Defendants.
88. That Defendant Board of County Commissioners of the County of Delaware ratified the acts of its agents and employees by failing to take remedial action upon notice of the circumstances or by allowing the acts to occur after receiving actual or constructive notice of those acts.
89. That the conduct complained of constitutes illegal retaliation in violation of Oklahoma Public Policy.

WHEREFORE, premises considered, Plaintiff prays this Court grant her judgment against Defendant Board of County Commissioners of the County of Delaware for actual and compensatory damages, declaratory and injunctive relief, prejudgment interest, cost and attorney fees, an assessment of damages to compensate for any tax consequences of this judgment and for any such other legal or equitable relief this Honorable Court deems just and proper.

**FOURTH CLAIM:
NEGLIGENT SUPERVISION**

90. For the Fourth Claim, Plaintiff re-alleges and incorporates by reference the foregoing paragraphs and states:
91. That Defendant Board of County Commissioners knew or should of known that Serena Bradley, Shannon Fields, and Rayma Mason had a propensity for sexually harassing employees, as demonstrated by previous complaints made against them.
92. That at the time these employees were sexually harassing Plaintiff, Defendant Board of County Commissioners had reason to believe that these employees would create an undue

risk of harm to others.

93. That Defendant Board of County Commissioners to act upon this belief.
94. That Defendant Board of County Commissioners knew or should of known that Ron Teel and Shannon Fields had a propensity for retaliating against employees who report sexual harassment.
95. That at the time these employees were retaliating against Plaintiff, Defendant Board of County Commissioners had reason to believe that these employees would create an undue risk of harm to others.
96. That Defendant Board of County Commissioners to act upon this belief.
97. That the Plaintiff was injured because of Defendant Board of County Commissioner's failure to act.
98. That Plaintiff's injuries are a direct and proximate result of Defendant Board of County Commissioner's failure to act.

WHEREFORE, Plaintiff prays for a declaration that the conduct engaged in by Defendant Board of County Commissioners is in violation of Plaintiff's rights; for an award to Plaintiff for compensatory and punitive damages, including emotional distress, mental anguish, and humiliation, in an amount in excess of One Hundred Thousand Dollars(\$100,000.000); costs and expenses, including reasonable attorney's fees as provided for by applicable law; an assessment of damages to compensate for any tax consequences of this judgment and for any such other legal or equitable relief this Honorable Court deems just and proper.

Respectfully submitted,

ARMSTRONG & LOWE, P.C.

/s/ Kevin S. Merritt

Charles C. Vaught, OBA# 19962

Kevin S. Merritt, OBA# 19886

1401 South Cheyenne Avenue

Tulsa, Oklahoma 74119-3440

(918) 582-2500 (telephone)

(918) 388-0100 (facsimile)

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of December, 2010, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of Notice of Electronic Filing to the following ECF registrants:

Jodi S. Casey
429 N.E. 50th, Second Floor
Oklahoma City, OK 73105
Attorney for Defendant
Board of County Commissioners
County of Delaware

Betty Outhier Williams, OBA #9637
P.O. Box 87
Muskogee, OK 74402
Attorney for Defendant
Delaware County E911 Trust Authority

/s/ Kevin S. Merritt

5. The Board admits numerical paragraph 5 of Plaintiff's Third Amended Complaint.

6. Based upon information and belief, the Board admits numerical paragraph 6 of Plaintiff's Third Amended Complaint.

7. The Board denies the allegations contained in numerical paragraph 7 of Plaintiff's Third Amended Complaint.

8. The Board admits venue in this Court would be proper if this Court had subject-matter jurisdiction; however, it is denied that Plaintiff has stated a claim sufficient to invoke this Court's jurisdiction.

9. The Board admits the allegations contained in numerical paragraph 9 of Plaintiff's Third Amended Complaint.

10. The Board denies the allegations contained in numerical paragraph 10 of Plaintiff's Third Amended Complaint.

11. The Board denies the allegations contained in numerical paragraph 11 of Plaintiff's Third Amended Complaint, to the extent it refers to the Board as Plaintiff's employer.

12. The Board denies all of the allegations contained in numerical paragraph 12 of Plaintiff's Third Amended Complaint. The Board, however, admits the EEOC issued a Dismissal and Notice of Rights to the Plaintiff on March 10, 2009.

13. The Board denies all of the allegations contained in numerical paragraph 13 of Plaintiff's Third Amended Complaint. The Board admits, however, the EEOC issued a Dismissal and Notice of Rights to the Plaintiff on August 13, 2010.

14. The Board denies the allegations contained in numerical paragraph 14 of

Plaintiff's Third Amended Complaint.

15. The Board denies the allegations contained in numerical paragraph 15 of Plaintiff's Third Amended Complaint, as phrased.

16. The Board denies the allegations contained in numerical paragraph 16 of Plaintiff's Third Amended Complaint.

17. The Board is without sufficient information to answer the allegations contained in numerical paragraph 17, to include subsections (a) through (d), of Plaintiff's Third Amended Complaint, therefore the same are denied.

18. The Board is without sufficient information to answer the allegations contained in numerical paragraph 18 of Plaintiff's Third Amended Complaint, therefore the same are denied.

19. The Board is without sufficient information to answer the allegations contained in numerical paragraph 19 of Plaintiff's Third Amended Complaint, therefore the same are denied.

20. The Board is without sufficient information to answer the allegations contained in numerical paragraph 20 of Plaintiff's Third Amended Complaint, therefore the same are denied.

21. The Board is without sufficient information to answer the allegations contained in numerical paragraph 21 of Plaintiff's Third Amended Complaint, therefore the same are denied.

22. The Board is without sufficient information to answer the allegations contained in numerical paragraph 22 of Plaintiff's Third Amended Complaint, therefore the same are denied.

23. The Board is without sufficient information to answer the allegations contained in numerical paragraph 23 of Plaintiff's Third Amended Complaint, therefore the same are denied.

24. The Board is without sufficient information to answer the allegations contained in numerical paragraph 24 of Plaintiff's Third Amended Complaint, therefore the same are denied.

25. The Board is without sufficient information to answer the allegations contained in numerical paragraph 25 of Plaintiff's Third Amended Complaint, therefore the same are denied.

26. The Board is without sufficient information to answer the allegations contained in numerical paragraph 26 of Plaintiff's Third Amended Complaint, therefore the same are denied.

27. The Board is without sufficient information to answer the allegations contained in numerical paragraph 27 of Plaintiff's Third Amended Complaint, therefore the same are denied.

28. The Board denies the allegations contained in numerical paragraph 28 of Plaintiff's Third Amended Complaint.

29. The Board denies the allegations contained in numerical paragraph 29 of Plaintiff's Third Amended Complaint.

30. The Board is without sufficient information to answer the allegations contained in numerical paragraph 30 of Plaintiff's Third Amended Complaint, therefore the same are denied.

31. The Board is without sufficient information to answer the allegations contained

in numerical paragraph 31 of Plaintiff's Third Amended Complaint, therefore the same are denied.

32. The Board is without sufficient information to answer all of the allegations contained in numerical paragraph 32 of Plaintiff's Third Amended Complaint.

33. Based upon information and belief, the Board denies the allegations contained in numerical paragraph 33 of Plaintiff's Third Amended Complaint.

34. The Board denies the allegations contained in numerical paragraph 34 of Plaintiff's Third Amended Complaint.

35. The Board is without sufficient information to answer the allegations contained in numerical paragraph 35 of Plaintiff's Third Amended Complaint, therefore the same are denied.

36. The Board is without sufficient information to answer the allegations contained in numerical paragraph 36 of Plaintiff's Third Amended Complaint, therefore the same are denied.

37. The Board is without sufficient information to answer the allegations contained in numerical paragraph 37 of Plaintiff's Third Amended Complaint, therefore the same are denied.

38. The Board denies the allegations contained in numerical paragraph 38 of Plaintiff's Third Amended Complaint.

39. The Board is without sufficient information to answer the allegations contained in numerical paragraph 39 of Plaintiff's Third Amended Complaint, therefore the same are denied.

40. The Board is without sufficient information to answer the allegations contained

in numerical paragraph 40 of Plaintiff's Third Amended Complaint, therefore the same are denied.

41. The Board is without sufficient information to answer the allegations contained in numerical paragraph 41 of Plaintiff's Third Amended Complaint, therefore the same are denied.

42. The Board is without sufficient information to answer the allegations contained in numerical paragraph 42 of Plaintiff's Third Amended Complaint, therefore the same are denied.

43. The Board is without sufficient information to answer the allegations contained in numerical paragraph 43 of Plaintiff's Third Amended Complaint, therefore the same are denied.

44. The Board is without sufficient information to answer the allegations contained in numerical paragraph 44 of Plaintiff's Third Amended Complaint, therefore the same are denied.

45. The Board is without sufficient information to answer the allegations contained in numerical paragraph 45 of Plaintiff's Third Amended Complaint, therefore the same are denied.

46. The Board is without sufficient information to answer the allegations contained in numerical paragraph 46 of Plaintiff's Third Amended Complaint, therefore the same are denied.

47. The Board is without sufficient information to answer the allegations contained in numerical paragraph 47 of Plaintiff's Third Amended Complaint, therefore the same are denied.

48. The Board is without sufficient information to answer the allegations contained in numerical paragraph 48 of Plaintiff's Third Amended Complaint, therefore the same are denied.

49. The Board is without sufficient information to answer the allegations contained in numerical paragraph 49 of Plaintiff's Third Amended Complaint, therefore the same are denied.

50. The Board is without sufficient information to answer the allegations contained in numerical paragraph 50 of Plaintiff's Third Amended Complaint, therefore the same are denied.

51. The Board is without sufficient information to answer the allegations contained in the first sentence of numerical paragraph 51 of Plaintiff's Third Amended Complaint, therefore the same are denied. The Board denies the allegations contained in the second sentence of numerical paragraph 51 of Plaintiff's Third Amended Complaint.

52. The Board is without sufficient information to answer the allegations contained in the first and second sentences of numerical paragraph 52 of Plaintiff's Third Amended Complaint, therefore the same are denied. The Board denies the allegations contained in the third sentence of numerical paragraph 52 of Plaintiff's Third Amended Complaint.

53. The Board is without sufficient information to answer the allegations contained in numerical paragraph 53 of Plaintiff's Third Amended Complaint, therefore the same are denied.

54. The Board is without sufficient information to answer the allegations contained in numerical paragraph 54 of Plaintiff's Third Amended Complaint, therefore the same are denied.

55. The Board is without sufficient information to answer the allegations contained in numerical paragraph 55 of Plaintiff's Third Amended Complaint, therefore the same are denied.

56. Based upon information and belief, the Board denies the allegations contained in the first sentence of numerical paragraph 56 of Plaintiff's Third Amended Complaint. The Board is without sufficient information to answer the remaining allegations contained in numerical paragraph 56 of Plaintiff's Third Amended Complaint, therefore the same are denied.

57. The Board is without sufficient information to answer the allegations contained in numerical paragraph 57 of Plaintiff's Third Amended Complaint, therefore the same are denied.

58. The Board is without sufficient information to answer the allegations contained in numerical paragraph 58 of Plaintiff's Third Amended Complaint, therefore the same are denied.

59. The Board is without sufficient information to answer the allegations contained in numerical paragraph 59 of Plaintiff's Third Amended Complaint, therefore the same are denied.

60. The Board is without sufficient information to answer the allegations contained in numerical paragraph 60 of Plaintiff's Third Amended Complaint, therefore the same are denied.

61. The Board is without sufficient information to answer the allegations contained in numerical paragraph 61 of Plaintiff's Third Amended Complaint, therefore the same are denied.

62. The Board is without sufficient information to answer the allegations contained in numerical paragraph 62 of Plaintiff's Third Amended Complaint, therefore the same are denied.

63. The Board is without sufficient information to answer the allegations contained in numerical paragraph 63 of Plaintiff's Third Amended Complaint, therefore the same are denied.

64. Defendant denies the allegations contained in numerical paragraph 64 of Plaintiff's Third Amended Complaint.

FIRST CLAIM:

SEXUAL HARASSMENT IN VIOLATION OF TITLE VII

65. The Board adopts and incorporates the answers and responses previously set forth herein.

66. The Board denies the allegations contained in numerical paragraph 66 of Plaintiff's Third Amended Complaint.

67. The Board denies the allegations contained in numerical paragraph 67 of Plaintiff's Third Amended Complaint.

68. The Board denies the allegations contained in numerical paragraph 68 of Plaintiff's Third Amended Complaint.

69. The Board denies the allegations contained in numerical paragraph 69 of Plaintiff's Third Amended Complaint.

70. The Board denies the allegations contained in numerical paragraph 70 of Plaintiff's Third Amended Complaint. Furthermore, punitive damages are not recoverable against the Board.

The Board denies the WHEREFORE paragraph and all claims for damages and relief contained therein.

SECOND CLAIM:

RETALIATION IN VIOLATION OF TITLE VII

71. The Board adopts and incorporates the answers and responses previously set forth herein.

72. The Board denies the allegations contained in numerical paragraph 72 of Plaintiff's Third Amended Complaint.

73. The Board denies the allegations contained in numerical paragraph 73 of Plaintiff's Third Amended Complaint.

74. The Board denies the allegations contained in numerical paragraph 74 of Plaintiff's Third Amended Complaint.

75. The Board denies the allegations contained in numerical paragraph 75 of Plaintiff's Third Amended Complaint. Furthermore, punitive damages are not recoverable against the Board.

76. The Board denies the allegations contained in numerical paragraph 76 of Plaintiff's Third Amended Complaint. Furthermore, punitive damages are not recoverable against the Board.

77. The Board denies the allegations contained in numerical paragraph 77 of Plaintiff's Third Amended Complaint. Furthermore, punitive damages are not recoverable against the Board.

The Board denies the WHEREFORE paragraph and all claims for damages and relief contained therein.

THIRD CLAIM:

STATE LAW *BURK* TORT CLAIM

78. The Board adopts and incorporates the answers and responses previously set forth herein.

79. The Board denies the allegations contained in numerical paragraph 79 of Plaintiff's Third Amended Complaint.

80. Numerical paragraph 80 of Plaintiff's Third Amended Complaint sets forth a legal statement and does not require a response.

81. The Board denies the allegations contained in numerical paragraph 81 of Plaintiff's Third Amended Complaint.

82. The Board denies the allegations contained in numerical paragraph 82 of Plaintiff's Third Amended Complaint.

83. The Board denies the allegations contained in numerical paragraph 83 of Plaintiff's Third Amended Complaint.

84. Numerical paragraph 84 of Plaintiff's Third Amended Complaint sets forth a legal statement and does not require a response.

85. The Board denies the allegations contained in numerical paragraph 85 of Plaintiff's Third Amended Complaint.

86. The Board denies the allegations contained in numerical paragraph 86 of Plaintiff's Third Amended Complaint.

87. The Board denies the allegations contained in numerical paragraph 87 of Plaintiff's Third Amended Complaint.

88. The Board denies the allegations contained in numerical paragraph 88 of

Plaintiff's Third Amended Complaint.

89. The Board denies the allegations contained in numerical paragraph 89 of Plaintiff's Third Amended Complaint.

The Board denies the WHEREFORE paragraph and all claims for damages and relief contained therein.

FOURTH CLAIM:

NEGLIGENT SUPERVISION

90. The Board adopts and incorporates the answers and responses previously set forth herein.

91. The Board denies the allegations contained in numerical paragraph 91 of Plaintiff's Third Amended Complaint.

92. The Board denies the allegations contained in numerical paragraph 92 of Plaintiff's Third Amended Complaint.

93. Paragraph 93 of Plaintiff's Third Amended Complaint is vague and unclear. Further, the Board denies the allegations contained in numerical paragraph 93 of Plaintiff's Third Amended Complaint.

94. The Board denies the allegations contained in numerical paragraph 94 of Plaintiff's Third Amended Complaint.

95. The Board denies the allegations contained in numerical paragraph 95 of Plaintiff's Third Amended Complaint.

96. Paragraph 96 of Plaintiff's Third Amended Complaint is vague and unclear. Further, the Board denies the allegations contained in numerical paragraph 96 of Plaintiff's Third Amended Complaint.

97. The Board denies the allegations contained in numerical paragraph 97 of Plaintiff's Third Amended Complaint.

98. The Board denies the allegations contained in numerical paragraph 98 of Plaintiff's Third Amended Complaint.

The Board denies the WHEREFORE paragraph and all claims for damages and relief contained therein.

DEFENSES

The Defendant, Board of County Commissioners of the County of Delaware ("Board"), for its defenses to Plaintiff's Third Amended Complaint on file herein alleges and states as follows:

1. Plaintiff's Third Amended Complaint fails to state a claim upon which relief may be granted.

2. The Board is not a proper party to Plaintiff's Title VII claims, as Plaintiff was not employed by the Board.

3. Plaintiff failed to state a claim for any violation of Title VII of the Civil Rights Act of 1964 against the Board, as the Board was not Plaintiff's employer and Plaintiff did not suffer discrimination or retaliation at the hands of the Board or during any time wherein Plaintiff may have been employed by the Board.

4. Plaintiff was an at-will employee under the laws of the State of Oklahoma and actions taken related to Plaintiff's employment, were the result of legitimate, non-discriminatory governmental business reasons.

5. The same decisions would have been reached concerning Plaintiff's employment even in the absence of her alleged protected activity.

6. To the extent Plaintiff properly and timely notified the governmental employer of alleged discriminatory or harassing activity, the governmental employer took prompt and appropriate remedial action to address and resolve such complaint.

7. At least a portion of Plaintiff's claims are barred by the applicable statute of limitations.

8. Plaintiff failed to timely exhaust her administrative remedies for at least a portion of her claims, therefore, Plaintiff is barred from raising said claims.

9. To the extent Plaintiff is complaining about alleged sexual harassment conduct or retaliation occurring more than 300 days before she filed her Charge of Discrimination, her Title VII claim would be barred by the statute of limitations.

10. Damages, if any, under Title VII are limited by the statutory cap on damages.

11. Punitive damages are not recoverable against the Board, under any theory of relief.

12. Plaintiff's federal claims provide Plaintiff an exclusive remedy.

13. The Board is exempt from liability under the Oklahoma Governmental Tort Claims Act, Okla. Stat. tit. 51, § 151, *et seq.*

14. Under the Oklahoma Governmental Tort Claims Act, the Board's potential exposure to damages is limited.

15. The Board denies any negligence on its part. However, if the Board is found liable, it is subject only to several liability in proportion to its negligence and then only to the limits imposed by the Oklahoma Governmental Tort Claims Act.

16. The Board denies that it is negligent, however, if it is determined that it was negligent, then the negligence of the Plaintiff and/or the negligence of a third party exceeds

the negligence of the Board and bars Plaintiff's recovery herein.

17. The Board denies the nature and extent of Plaintiff's injuries and damages.

18. Plaintiff failed to mitigate her damages.

19. The Board is entitled to a reasonable attorney fee and costs.

20. The Board reserves the right to request leave of court to add additional affirmative defenses as they become known through discovery.

WHEREFORE, having fully answered Plaintiff's Third Amended Complaint on file herein, Defendant, Board of County Commissioners of the County of Delaware, respectfully requests that Plaintiff take nothing by reason of her Third Amended Complaint on file herein, and the Board be awarded its costs and reasonable attorneys fees in relation to the defense of this matter.

Respectfully submitted,

s/ Jodi S. Casey

Jodi S. Casey, OBA No. 17221
COLLINS, ZORN & WAGNER, P.C.
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Oklahoma City, OK 73105-1815
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ATTORNEY FOR DEFENDANT BOARD OF
COUNTY COMMISSIONERS OF THE COUNTY
OF DELAWARE

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2010, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Charles C. Vaught, Esq.
Armstrong & Lowe, P.C.
1401 South Cheyenne
Tulsa, OK 74119-3440
Attorney for Plaintiff

Betty Outhier Williams, Esq.
Betty Outhier Williams Law Office
P.O. Box 87
Muskogee, OK 74402
Attorney for Defendant Delaware County E911 Trust Authority

s/ Jodi S. Casey _____
Jodi S. Casey