


IN THE DISTRICT COURT OF ROGERS COUNTY
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT
ROGERS COUNTY OKLAHOMA

JUL 15 2009

JANA WALSTROM,)
)
Plaintiff,)
)
vs.)
)
STATE OF OKLAHOMA, EX REL., BOARD)
OF REGENTS OF THE UNIVERSITY OF)
OKLAHOMA, CAMERON UNIVERSITY,)
ROGERS STATE UNIVERSITY, DR. LINDA)
ANDREWS, and DR. LARRY MINKS,)
individually,)
)
Defendants.)

CANDY CZAPANSKY, COURT CLERK

DEPUTY

Case No. CJ-08-595

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ANSWER OF DEFENDANTS TO PLAINTIFF'S FIRST AMENDED PETITION

COME NOW the Defendants, STATE OF OKLAHOMA, EX REL., BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA, CAMERON UNIVERSITY, ROGERS STATE UNIVERSITY, DR. LINDA ANDREWS, and DR. LARRY MINKS, individually, (hereinafter referred to as "Defendants") by and through their attorneys of record, Taylor, Burrage, Foster, Mallett, Downs & Ramsey Law Firm, and hereby submit their Answer to Plaintiff's First Amended Petition and would respectfully show the Court as follows:

Admissions and Denials

All allegations not specifically admitted are hereinafter denied.

1. The Plaintiff's allegations in paragraph 1 of her First Amended Petition are partially incorrect and to that extent they are denied. The proper institutional defendant is the State of Oklahoma *ex rel*, the Board of Regents of the University of Oklahoma, which is the governing institution for Rogers State University and Cameron University. The First Amended Petition is devoid of any factual averments related to or against Cameron University and, to the extent that any were intended by Plaintiff, said allegations are strictly denied. For purposes of clarity, this Answer

IMAGED

to the First Amended Petition will refer to the State, the Board of Regents, and RSU collectively as “RSU”.

2. RSU admits that the Plaintiff is a former employee, but is without sufficient information to admit or deny the remainder of the allegations in paragraph 2 of the First Amended Petition.

3. Defendants RSU and Dr. Linda Andrews (hereinafter “Dr. Andrews”) admit that Dr. Andrews is an employee, but is without sufficient information to admit or deny the allegations in paragraph 3 of the Plaintiff’s First Amended Petition.

4. RSU admits the allegations in paragraph 4 of the Plaintiff’s First Amended Petition.

5. RSU is without sufficient information to admit or deny the allegations in paragraph 5 of the Plaintiff’s First Amended Petition.

6. RSU is without sufficient information to admit or deny the allegations in paragraph 6 of the Plaintiff’s First Amended Petition.

7. The allegations in paragraph 7 of the Plaintiff’s First Amended Petition are a combination of legal conclusions, to which no response is required, and unsupported factual allegations, which RSU and Dr. Andrews and Dr. Minks cannot admit or deny. Accordingly, RSU and Defendants Drs. Andrews and Minks deny the allegations in paragraph 7 of the Plaintiff’s First Amended Petition.

8. The allegations in paragraph 8 of the Plaintiff’s First Amended Petition are legal conclusions to which no response is required.

9. The allegations in paragraph 9 of the Plaintiff’s First Amended Petition have been rendered moot by virtue of the June 11, 2009, Opinion and Order from U.S. District Judge Claire Eagan dismissing Plaintiff’s claim under 42 U.S.C. § 1983 for alleged violations of the First

Amendment to the Constitution of the United States of America. To the extent that any claims may exist based on the allegations in paragraph 9 of the Plaintiff's First Amended Petition, RSU and Defendants Drs. Andrews and Minks deny the remainder of the allegations in paragraph 9 of the Plaintiff's First Amended Petition.

10. The allegations in paragraph 10 of the Plaintiff's First Amended Petition have been rendered moot by virtue of the June 11, 2009, Opinion and Order from U.S. District Judge Claire Eagan dismissing Plaintiff's claim under 42 U.S.C. § 1983 for alleged violations of the First Amendment to the Constitution of the United States of America. To the extent that any claims may exist based on the allegations in paragraph 9 of the Plaintiff's First Amended Petition, RSU and Defendants Drs. Andrews and Minks deny the remainder of the allegations in paragraph 9 of the Plaintiff's First Amended Petition.

11. RSU denies the allegations in paragraph 11 of the Plaintiff's First Amended Petition and demands strict proof thereof.

12. RSU and Defendants Drs. Andrews and Minks deny the allegations in paragraph 12 (sic 9) of the Plaintiff's First Amended Petition.

13. The allegations in paragraph 13 (sic 10) of the Plaintiff's First Amended Petition are legal conclusions to which no response is required.

14. The allegations in paragraph 14 (sic 11) of the Plaintiff's First Amended Petition are legal conclusions to which no response is required. To the extent that the allegations in paragraph 14 (sic 11) of the Plaintiff's First Amended Petition contain factual averments, RSU and Defendants Drs. Andrews and Minks deny the allegations in paragraph 14 (sic 11) of the Plaintiff's First Amended Petition.

15. The allegations in paragraph 15 (sic 12) of the Plaintiff's First Amended Petition are legal conclusions to which no response is required. To the extent that the allegations in paragraph 15 (sic 12) of the Plaintiff's First Amended Petition contain factual averments, RSU and Defendants Drs. Andrews and Minks deny the allegations in paragraph 15 (sic 12) of the Plaintiff's First Amended Petition.

16. RSU and Defendants Drs. Andrews and Minks are without sufficient information to admit or deny the allegations in paragraph 16 (sic 13) of the Plaintiff's First Amended Petition.

17. The allegations in paragraph 17 (sic 14) of the Plaintiff's First Amended Petition are legal conclusions to which no response is required. To the extent that the allegations in paragraph 17 (sic 14) of the Plaintiff's First Amended Petition contain factual averments, RSU and Defendants Drs. Andrews and Minks deny the allegations in paragraph 17 (sic 14) of the Plaintiff's First Amended Petition.

Affirmative Defenses

18. As a constitutional body of the State of Oklahoma, the University is entitled to all immunities, protections, and limitations afforded by the Oklahoma Governmental Tort Claims Act and the Eleventh Amendment to the United States' Constitution, and otherwise by virtue of its sovereignty.

19. Plaintiff is not entitled to recover punitive or exemplary damages against the University.

20. The Petition, and each alleged cause of action therein, is barred, in whole or in part, because each action of which Plaintiff complains, if it occurred at all, was taken for legitimate, non-discriminatory reasons that did not violate public policy or any statutory prohibition.

21. The Petition, and each alleged cause of action therein, is barred, in whole or in part, because any decisions made by the University with respect to Plaintiff were made in good faith and reasonably based on the facts as the University understood them.

22. Plaintiff unreasonably failed to avail herself of available internal remedies.

23. The University reserves the right to amend its affirmative and other defenses upon the completion of discovery and the preparation of a final pretrial order in this case.

24. Plaintiff has failed to state a claim in whole or part upon which relief can be granted against Defendants.

25. Plaintiff has failed to mitigate her damages.

26. Plaintiff's claims are barred due to Release.

27. Plaintiff's claim are barred due to the Doctrine of Waiver.

28. Plaintiff's claim are barred due to the Doctrine of Estoppel.

WHEREAS discovery is ongoing, this Defendant specifically reserves the right to amend this Answer and to supplement its Affirmative Defenses as additional information is made known to it.

WHEREFORE, premises considered, Defendants request that the Court grant judgment against Plaintiff on the cause of action alleged above and for all attorneys' fees, costs, litigation expenses, and for such other relief as the Court deems just.

Respectfully submitted,



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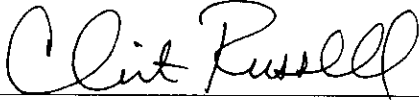
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CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the above and foregoing document was on the 15th day of July, 2009 mailed by X U.S. Mail, Certified Mail, Return Receipt Requested; faxed, delivered, e-mailed to the following:

Brendan McHugh, OBA # 18422
P.O. Box 1392
Claremore, OK 74017
Attorney for Plaintiff



CLINT RUSSELL

I, Candl Czupensky, Court Clerk for Rogers County, Oklahoma hereby certify that the foregoing is a true and correct and full copy of the instrument herewith set out as appears of record in the Court Clerk's Office of Rogers County.

Oklahoma this 8 day of Sept 2009
By Jennie Long Candl Czupensky
DEPUTY COURT CLERK