

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

BARBARA ANN WILSON,)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	
)	CV-10-KOB-2386
CITY OF BIRMINGHAM, et al.,)	
Defendants.)	

PARTIES' JOINT STATUS REPORT

Pursuant to the Court's Scheduling Order of December 7, 2010 and Order of June 2, 2011, the parties submit the following status report.¹

1. **Nature of the Case**

From the Plaintiff, Barbara Wilson:

Unknown

From Defendants, the City of Birmingham and Birmingham Library Board:

The Defendants deny each and every material allegation of the plaintiff's complaint and demands strict proof thereof.

The Defendants would plead that the Plaintiff has violated the Birmingham Library policies. The Defendants have an anti-sex discrimination/hostile work environment policy which is enforced and all employees are required to comply.

¹ Defendants' counsel on Thursday, June 9, 2011 forwarded via email a draft Parties Joint Status Report to Plaintiff's counsel. Plaintiff's counsel has never responded to email. Defendants' counsel will be out of the office in a hearing on Friday June 17 and in Court ordered mediation on Monday, June 20. Thus, Defendants' counsel will not be able communicate with Plaintiff's counsel to resolve this matter. Defendants' counsel files this report unilaterally in order to timely comply with the Court's order.

The claims of the Plaintiff are untrue and the Defendant is not guilty. The Plaintiff does not work in a sexually hostile environment.

The Defendants have policy, practices and technology in place to regulate the access of the public to obscene and/or pornographic materials.

The Defendants have security guards in place to regulate the behavior of patrons entering the library facilities.

The Defendant asserts the statute of limitations as to claims arising under 42 U.S.C. 2000 which occurred prior to 180 days prior to filing the her EEOC charge.

The Complaint fails to state a claim upon which relief may be granted under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000 and Civil Rights Act of 1991.

The Board denies that it violated any provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000 and Civil Rights Act of 1991.

The Plaintiff cannot prove a hostile work environment as she cannot show: (1) that he or she belongs to a protected group, (2) that the employee has been subject to unwelcome sexual harassment, such as sexual advances, requests for sexual favors, and other conduct of a sexual nature, (3) that the harassment must have been based on the sex of the employee, (4) that the harassment was sufficiently severe or pervasive to alter the terms and conditions of employment and create a discriminatorily abusive working environment, and (5) a basis for holding the employer liable. Civil Rights Act of 1964, § 703(a)(1), 42 U.S.C.A. § 2000e-2(a)(1).

Plaintiff's "subjective perception" to the harassment as sufficiently severe and pervasive to alter the terms or conditions of employment is not objectively reasonable. Civil Rights Act of 1964, § 703(a)(1), 42 U.S.C.A. § 2000e-2(a)(1).

Plaintiff's encounters to general vulgarity or references to sex that are indiscriminate in nature are not actionable. Civil Rights Act of 1964, § 703(a)(1), 42 U.S.C.A. § 2000e-2(a)(1).

The Defendants are immune from the imposition of punitive damages for an alleged violation of Constitutional rights. Punitive damages are barred against the City by the provisions of Code of Alabama §6-11-26, 1975, City of Newport v. Facts Concerts, 453 U.S. 247, 101 S. Ct. 2748 (1981).

The Defendants pleads all remaining defenses, including state law claims, as outlined in their answers.

2. Current Status

Discovery is open per scheduling order. Discovery ends July 1, 2011. Summary judgment is due July 22, 2011. Case set for Pretrial on October 28, 2011.

3. Pending Motions

None.

4. Current or Anticipated Problems in Preparing for Trial

The parties anticipate no problems in preparing for trial. The parties will file a timely motion if needed.

5. Settlement Efforts & Prospects

The Parties have not discussed any settlement offers. Settlement thus at this point appears unlikely.

6. Mediation

The parties do not believe that mediation would be productive and request that the case not be submitted to mediation.

Dated: June 17, 2011

Respectfully submitted,

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