

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

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

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**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

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The Defendants, the City of Birmingham, a municipal corporation under the laws of the State of Alabama, and the Birmingham Library Board, by and through their attorney of record, in the above-styled cause, and move this Honorable Court to grant summary judgment in their favor as to all claims in plaintiff's complaint, and as grounds therefore, say as follows:

1. The complaint fails to state a claim against the Defendants upon which relief may be granted.
2. There is no genuine issue as to any material fact and Defendants are entitled to judgment as a matter of law.
3. The plaintiff failed to allege, against the defendants, violations of clearly established constitutional and federal statutory rights. The plaintiff's

allegations do not give rise to violations of any rights under the U.S. Constitution.

4. The Defendants did not deprive the plaintiff of any constitutional or federally protected right.
5. The Plaintiff cannot prove a hostile work environment as she cannot show one or more of the following: (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).
6. The Plaintiff has failed to prove a violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000(e) *et. seq.* and the Civil Rights Act of 1991
7. Defendant, Birmingham Library Board, is a Department of the City of Birmingham. Any and all claims against it are due to be dismissed.

White v. Birchfield, 582 So. 2nd 1085, (Ala. 1991), Dean v. Barber, 951 F.2d 1210 (11<sup>th</sup> Cir. 1992)..

8. The Defendants denies it can be liable for punitive damages for federal and state claims. City of Newport News v. Facts Concerts, 453 U.S. 247, 101 S. Ct. 2748 (1981).
9. The Defendants have disseminated written policies prohibiting sex discrimination, harassment and retaliation.
10. The Defendants have disseminated written policies concerning internet access and patron behavior.
11. Defendants rely upon the pleadings, their Memorandum Brief, and exhibits in support of this Motion.

Respectfully submitted,

/s/Fredric L. Fullerton, II  
Fredric L. Fullerton, II  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 20, 2011 I electronically filed the foregoing with the Clerk of the Court using the e-filing system which will send notification to the following:

Adam P. Morel, Esq.  
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Birmingham, AL. 35209

/s/Fredric L. Fullerton, II  
Of Counsel