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5 Attorney for Defendant Phoenix Law Enforcement Association

6
 7 **IN THE UNITED STATES DISTRICT COURT**
 8 **FOR THE DISTRICT OF ARIZONA**

9 Lonetta Sanders,

10 Plaintiff,

11 v.

12 City of Phoenix, Phoenix Law Enforcement
 13 Association,

14 Defendants.

Case No. CV06-1644-PHX-SRB

DEFENDANT PHOENIX LAW
 ENFORCEMENT ASSOCIATION'S
 ANSWER TO PLAINTIFF'S 2ND
 AMENDED COMPLAINT

(Assigned to the Honorable
 Susan R. Bolton)

16
 17 For its answer to Plaintiff's 2nd Amended Complaint filed in this action
 18 (the "Complaint"), Defendant Phoenix Law Enforcement Association ("PLEA")
 19 states as follows:

20
 21 1. Answering Paragraph 1 of the Complaint, PLEA admits the allegations
 22 contained therein.

23
 24 2. Answering Paragraph 2 of the Complaint, the statements therein do not
 25 appear to be directed at PLEA. To the extent that any allegations in Paragraph 2 are
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1 directed at PLEA, PLEA is without knowledge or information sufficient to form a belief
2 as to the truth of the allegations contained therein, and therefore denies them.

3 3. Answering Paragraph 3 of the Complaint, the statements therein do not
4 appear to be directed at PLEA. PLEA affirmatively alleges that Paragraph 3 contains
5 legal conclusions to which no response is required. To the extent that any allegations in
6 Paragraph 3 are directed at PLEA, PLEA is without knowledge or information sufficient
7 to form a belief as to the truth of the allegations contained therein, and therefore denies
8 them.
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10 4. Answering Paragraph 4 of the Complaint, the statements therein do not
11 appear to be directed at PLEA. PLEA affirmatively alleges that it contains legal
12 conclusions to which no response is required. To the extent that any allegations in
13 Paragraph 4 are directed at PLEA, PLEA is without knowledge or information sufficient
14 to form a belief as to the truth of the allegations contained therein, and therefore denies
15 them.
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17 5. Answering Paragraph 5 of the Complaint, the statements therein do not
18 appear to be directed at PLEA. To the extent that any allegations in Paragraph 5 are
19 directed at PLEA, PLEA is without knowledge or information sufficient to form a belief
20 as to the truth of the allegations contained therein, and therefore denies them.
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22 6. Answering Paragraph 6 of the Complaint, the statements therein do not
23 appear to be directed at PLEA. To the extent that any allegations in Paragraph 6 are
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1 directed at PLEA, PLEA is without knowledge or information sufficient to form a belief
2 as to the truth of the allegations contained therein, and therefore denies them.

3 7. Answering Paragraph 7 of the Complaint, the allegations in Paragraph 7 of
4 the Complaint are not directed at PLEA and therefore no response is required. To the
5 extent that the allegations in Paragraph 7 are directed at PLEA, PLEA is without
6 knowledge or information sufficient to form a belief as to the truth of the allegations
7 contained therein, and therefore denies them.

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9 8. Answering Paragraph 8 of the Complaint, PLEA affirmatively alleges that it
10 contains legal conclusions to which no response is required.

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12 9. Answering Paragraph 9 of the Complaint, the allegations in Paragraph 9 of
13 the Complaint are not directed at PLEA and therefore no response is required. To the
14 extent that the allegations in Paragraph 9 are directed at PLEA, PLEA is without
15 knowledge or information sufficient to form a belief as to the truth of the allegations
16 contained therein, and therefore denies them.

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18 10. Answering Paragraph 10 of the Complaint, PLEA affirmatively denies the
19 allegations contained therein.

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21 11. Answering Paragraph 11 of the Complaint, PLEA admits that Plaintiff is a
22 black female, but is without knowledge or information sufficient to form a belief as to the
23 truth of the allegations regarding her citizenship status or current residency, and therefore
24 denies them. As to the remaining portion of Paragraph 11 of the Complaint, PLEA is
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1 without knowledge or information sufficient to form a belief as to the truth of those
2 allegations, and therefore denies them.

3 12. Answering Paragraph 12 of the Complaint, the allegations therein are not
4 directed at PLEA and therefore no response is required. To the extent that the allegations
5 in Paragraph 12 are directed at PLEA, PLEA is without knowledge or information
6 sufficient to form a belief as to the truth of the allegations contained therein, and therefore
7 denies them.
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9 13. Answering Paragraph 13 of the Complaint, PLEA affirmatively alleges that
10 it contains legal conclusions to which no response is required. To the extent that the
11 statements contained in Paragraph 10 of the Complaint contain factual allegations to
12 which a response is required, PLEA affirmatively denies the allegations.
13

14 14. Answering Paragraphs 14 through 74 of the Complaint, the statements
15 contained therein are not directed at PLEA and therefore no response by PLEA is
16 required. To the extent that the allegations in Paragraphs 14 through 74 are directed at
17 PLEA, PLEA is without knowledge or information sufficient to form a belief as to the
18 truth of the allegations contained therein, and therefore denies them.
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20 15. Answering Paragraph 75 of the Complaint, PLEA denies that it harassed or
21 discriminated against Plaintiff.
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23 16. Answering Paragraph 76 of the Complaint, PLEA admits that Detective
24 Freund was a member of PLEA in 2003 and 2004. PLEA is without knowledge or
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1 information sufficient to form a belief as to the truth of the remaining allegations
2 contained in Paragraph 76 of the Complaint and therefore denies them.

3 17. Answering Paragraph 77 of the Complaint, PLEA is without knowledge or
4 information sufficient to form a belief as to the truth of the allegations contained therein
5 and therefore denies them.
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7 18. Answering Paragraph 78 of the Complaint, the statements contained therein
8 are not directed at PLEA and therefore no response by PLEA is required. To the extent
9 that the allegations in Paragraph 78 are directed at PLEA, PLEA is without knowledge or
10 information sufficient to form a belief as to the truth of the allegations contained therein,
11 and therefore denies them.
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13 19. Answering Paragraphs 79 through 80 of the Complaint, PLEA denies the
14 allegations contained therein.
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16 20. Answering Paragraph 81 of the Complaint, PLEA denies it made any
17 allegations against Plaintiff.
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19 21. Answering Paragraphs 81 through 95 of the Complaint, the statements
20 contained therein are not directed at PLEA and therefore no response by PLEA is
21 required. To the extent that the allegations in Paragraphs 81 through 95 are directed at
22 PLEA, PLEA is without knowledge or information sufficient to form a belief as to the
23 truth of the allegations contained therein, and therefore denies them.
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25 22. Answering Paragraph 96 of the Complaint, PLEA admits that it provides
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1 assistance to its members who file grievances against superior officers and against its
2 members' employer, and admits, upon information and belief, that it provided assistance
3 to Detective Freund in one or more grievances.

4 23. Answering Paragraph 97 of the Complaint, PLEA denies the allegations
5 contained therein.
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7 24. Answering Paragraph 98 of the Complaint, PLEA denies that it filed any
8 grievance on its own behalf. As to the remaining allegations contained in Paragraph 98,
9 the statements contained therein are not directed at PLEA and therefore no response by
10 PLEA is required. To the extent that the allegations in Paragraph 98 are directed at
11 PLEA, PLEA is without knowledge or information sufficient to form a belief as to the
12 truth of the allegations contained therein, and therefore denies them.
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14 25. Answering Paragraphs 99 and 100 of the Complaint, the statements
15 contained therein are not directed at PLEA and therefore no response by PLEA is
16 required. To the extent that the allegations in Paragraph 99 and Paragraph 100 are
17 directed at PLEA, PLEA is without knowledge or information sufficient to form a belief
18 as to the truth of the allegations contained therein, and therefore denies them.
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20 26. Answering Paragraph 101 of the Complaint, PLEA admits, upon
21 information and belief, that it did not file the grievances referenced therein.
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23 27. Answering Paragraphs 102 and 103 of the Complaint, the statements
24 contained therein are not directed at PLEA and therefore no response by PLEA is
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1 required. To the extent that the allegations in Paragraph 102 and Paragraph 103 are
2 directed at PLEA, PLEA is without knowledge or information sufficient to form a belief
3 as to the truth of the allegations contained therein, and therefore denies them.

4 28. Answering Paragraph 104 of the Complaint, PLEA admits, upon
5 information and belief, that it did not file the grievance referenced therein.

6 29. Answering Paragraph 105 of the Complaint, PLEA denies the allegations
7 contained therein.

8 30. Answering Paragraph 106 of the Complaint, PLEA admits, upon
9 information and belief, that Plaintiff filed a charge against it. The remaining portion of
10 Paragraph 106 is unintelligible, and as such, PLEA denies the remainder of Paragraph
11 Paragraph 106 is unintelligible, and as such, PLEA denies the remainder of Paragraph
12 Paragraph 106 is unintelligible, and as such, PLEA denies the remainder of Paragraph
13 Paragraph 106.

14 31. Answering Paragraphs 107 through 169 of the Complaint, the statements
15 contained therein are not directed at PLEA and therefore no response by PLEA is
16 required. To the extent that the allegations in Paragraph 107 through 169 are directed at
17 PLEA, PLEA is without knowledge or information sufficient to form a belief as to the
18 truth of the allegations contained therein, and therefore denies them.

19 32. Answering Paragraph 170 of the Complaint, PLEA realleges each of the
20 previous paragraphs as if fully set forth here.

21 33. Answering Paragraph 171 of the Complaint, the statements contained
22 therein are not directed at PLEA and therefore no response by PLEA is required. To the
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1 extent that the allegations in Paragraph 171 are directed at PLEA, PLEA is without
2 knowledge or information sufficient to form a belief as to the truth of the allegations
3 contained therein, and therefore denies them.

4 34. Answering Paragraph 172 of the Complaint, PLEA denies that it had any
5 duty to represent Plaintiff with respect to processing of grievances.
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7 35. Answering Paragraph 173 of the Complaint, PLEA denies the allegations
8 contained therein.

9 36. Answering Paragraph 174 of the Complaint, the statements contained
10 therein are not directed at PLEA and therefore no response by PLEA is required. To the
11 extent that the allegations in Paragraph 174 are directed at PLEA, PLEA is without
12 knowledge or information sufficient to form a belief as to the truth of the allegations
13 contained therein, and therefore denies them.
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15 37. Answering Paragraph 175, PLEA denies Plaintiff's entitlement to any
16 damages from it for the reason that PLEA owed Plaintiff no duties, contractual or
17 otherwise. PLEA, if it owed a duty of any kind to Plaintiff, did not breach any such duty,
18 and if PLEA owed Plaintiff any such duty and breached it, said breach could not have
19 been, and was not, the legal cause of any damage Plaintiff may have sustained. Plaintiff
20 has failed to state any claim against PLEA upon which relief can be granted.
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22 38. Answering Paragraphs 176 through 223 of the Complaint, the statements
23 contained therein are not directed at PLEA and therefore no response by PLEA is
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1 required. To the extent that any allegations in those Paragraphs are directed at PLEA,
2 PLEA is without knowledge or information sufficient to form a belief as to the truth of
3 the allegations contained therein, and therefore denies them.

4 39. The Second Amended Complaint and each and every purported cause of
5 action therein fails to state a claim upon which relief can be granted.

7 40. PLEA denies each and every allegation herein not admitted.

8 41. Defendant affirmatively asserts that the Plaintiff has received all procedural
9 and due process afforded under the law.

10 42. PLEA affirmatively alleges that it is not subject to punitive damages under
11 applicable law.

12 43. To the extent that the Plaintiff asserts injuries that arise from her work
13 environment, such claims are precluded by the exclusive remember provision of the
14 Arizona workers' compensation laws.

15 44. Defendant affirmatively asserts Plaintiff failed to mitigate damages.

16 45. Defendant affirmatively asserts that some or all of Plaintiff's claims are
17 barred in whole or in part by the applicable statutes or limitation or other time bars at law
18 or inequity, including, but not limited to, the equitable doctrines of *laches* and *estoppel*.

19 46. Defendant affirmatively asserts that some or all of the Plaintiff's claims are
20 barred in whole or in part because they were a direct and proximate result of Plaintiff's
21 own actions or omissions, and/or under the doctrine of unclean hands.

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1 47. As to the Plaintiff's claim for the intentional infliction of emotional distress,
2 Defendant affirmatively asserts that the Plaintiff did not incur any physical injury
3 sufficient to support this cause of action.

4 48. Defendant affirmatively incorporates all affirmative defenses available
5
6 under Federal Rules of Civil Procedure 8 and 12 not referenced above.

7 WHEREFORE, having answered Plaintiff's 2nd Amended Complaint, Defendant
8 Phoenix Law Enforcement Association requests that the Court dismiss Plaintiff's 2nd
9 Amended Complaint with prejudice in its entirety. In addition, the Defendant asks for an
10 award of Defendant's reasonable attorney's fees incurred in the defense of this matter and
11
12 for all other relief deemed just and equitable by the Court.

13 DATED this 11th day of April, 2008.

14
15 MICHAEL NAPIER, P.C.

16 /s/Michael Napier
17 Michael Napier
18 2525 E. Arizona Biltmore Circle
19 Suite C130
20 Phoenix, Arizona 85016
21 Attorney for Defendant Phoenix Law
22 Enforcement Association

23 I hereby certify that I electronically transmitted
24 the attached document to the Clerk's Office
25 using the CM/ECF System for filing on
26 this 11th day of April, 2008.

1 COPY of the foregoing hand delivered
2 this 11th day of April, 2008 to:

3 The Honorable Susan R. Bolton
4 United States District Court
5 401 West Washington Street
6 Phoenix, Arizona 85003

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By Melissa Sailors