

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

LAURA J. LAMBERT,

Plaintiff,

v.

**HUSSEY-MAYFIELD MEMORIAL
PUBLIC LIBRARY,**

Defendant.

Cause No. 1:10-cv-0919-JMS-TAB

**ANSWER AND DEFENSES TO PLAINTIFF’S COMPLAINT
AND DEMAND FOR JURY TRIAL**

Defendant Hussey-Mayfield Memorial Public Library (“Defendant”) answers Plaintiff’s Complaint and Demand for Jury Trial (the “Complaint”) as follows:

1. Plaintiff Laura J. Lambert (hereinafter “Lambert”), brings this action against Defendant Hussey-Mayfield Memorial Public Library (hereinafter “Defendant”), pursuant to the American with Disabilities Act (“ADA”), as amended, 42 U.S.C. § 12101 *et seq.*, and Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. § 2000e *et seq.*, as amended, 42 U.S.C. § 1981a.

ANSWER: Paragraph 1 is a rhetorical paragraph about the nature of Plaintiff’s claims for which no answer is required. To the extent an answer is deemed necessary, Defendant denies that it engaged in any unlawful employment practices and denies that Plaintiff is entitled to any relief.

II. Parties

2. Lambert is a United States citizen who, at all times relevant herein, has resided within the geographic boundaries of the Southern District of Indiana.

ANSWER: Defendant admits that Lambert is a United States citizen. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments set forth in paragraph 2.

3. Defendant is public library located in Boone County, Zionsville, Indiana, within the confines of the Southern District of Indiana.

ANSWER: Defendant admits the averments set forth in paragraph 3.

III. Jurisdiction and Venue

4. This Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1331, 1343, 42 U.S.C. § 12117, and 42 U.S.C. § 2000e-5(f)(3).

ANSWER: Defendant admits the averments set forth in paragraph 4.

5. Defendant is an “employer” within the meaning of the ADA, 42 U.S.C. § 12111(5)(A), and as defined by Title VII, 42 U.S.C. § 2000e(b).

ANSWER: Defendant admits the averments set forth in paragraph 5.

6. Lambert is an “employee” within the meaning of the ADA, 42 U.S.C. § 12111(4), and as defined by Title VII, 42 U.S.C. § 2000e(f).

ANSWER: Defendant denies that Lambert is currently an employee as defined by either of the cited statutory sections.

7. Lambert satisfied his obligation to exhaust his administrative remedies by timely filing charges with the Equal Employment Opportunity Commission (“EEOC”). Lambert having

received the appropriate Notices of Right to Sue brings this action within ninety (90) days of her receipt thereof.

ANSWER: Defendant admits that Lambert filed Charge No. 470-2009-03805 with the Equal Employment Opportunity Commission (“EEOC”) on August 31, 2009. Defendant further admits that the EEOC issued a Notice of Right to Sue on May 26, 2010. Defendant is without information sufficient to form a belief as to the truth of the remaining averments set forth in paragraph 7.

8. Venue is proper in this Court because all events giving rise to this lawsuit occurred with the Southern District of Indiana.

ANSWER: Defendant admits that this Court is the proper venue for this action. Defendant denies any remaining averments set forth in paragraph 8.

IV. Factual Allegations

9. On or about October 7, 1997, Lambert, a female, began her employment with Defendant as the Assistant Department Head for Circulation. Lambert held this position until the end of 2007. In 2008, Lambert voluntarily became the Circulation Clerk.

ANSWER: Defendant admits that Lambert is female and began her employment with Defendant as the Assistant Department Head for Circulation on October 7, 1997. Defendant denies the remaining averments set forth in paragraph 9.

10. Lambert is a “qualified individual with a disability” and/or has a record of a disability and/or was regarded as disabled as defined by the ADA, 42 U.S.C. §§ 12102(2) and 12111(8).

ANSWER: Defendant denies the averments set forth in paragraph 10.

11. Defendant had knowledge of Lambert's disability.

ANSWER: Defendant admits that Lambert had medical problems with her back in 2008. Defendant denies all remaining averments set forth in paragraph 11.

12. At all times relevant, Lambert's work performance met or exceeded Defendant's legitimate expectations.

ANSWER: Defendant denies the averments set forth in paragraph 12.

13. On or about September 2008, Lambert suffered a injury which exacerbated her disability.

ANSWER: Defendant denies the averments set forth in paragraph 13.

14. Defendant had knowledge of Lambert's injury.

ANSWER: Defendant denies the averments set forth in paragraph 14.

15. From on or about October 6, 2008, to on or about November 18, 2008, Lambert was on approved leave as a result of her disability.

ANSWER: Defendant denies the averments set forth in paragraph 15.

16. Lambert's medical condition substantially limits various major life activities.

ANSWER: Defendant is without information sufficient form a belief as to the truth of the averments set forth in paragraph 16.

17. On or about November 6, 2008, Lambert presented Defendant with her work restrictions and requested a reasonable accommodation that would allow her to perform the essential functions of her job.

ANSWER: Defendant denies the averments set forth in paragraph 17.

18. Lambert also attempted to engage Defendant in the interactive process.

ANSWER: Defendant denies the averments set forth in paragraph 18.

19. Despite Lambert's requests, Defendant did not engage in the interactive process or reasonably accommodate Lambert.

ANSWER: Defendant denies the averments set forth in paragraph 19.

20. Lambert could have performed her job with a reasonable accommodation.

ANSWER: Defendant denies the averments set forth in paragraph 20.

21. On November 18, 2008, Defendant terminated Lambert's employment.

ANSWER: Defendant admits that it terminated Lambert's employment effective November 18, 2008. Defendant denies the remaining averments set forth in paragraph 21.

22. Defendant has treated similarly-situated employees who did not have a disability more favorably in the terms, conditions, and privileges of employment than Lambert.

ANSWER: Defendant denies the averments set forth in paragraph 22.

23. Defendant has previously provided accommodations similar to the accommodations requested by Lambert to other employees.

ANSWER: Defendant denies the averments set forth in paragraph 23..

24. Upon information and belief, Defendant also extended more favorable employment benefits to male employees. In particular, Mr. Rick Dueschle was given enhanced retirements as a condition of his employment.

ANSWER: Defendant denies the averments set forth in paragraph 24.

25. On or about February 2003, Deuschelle was hired as an salaried exempt employee similarly-situated to Lambert. Although hired in 2003, upon information and belief, Deuschelle was given a payroll hire date of 1991. Although Deuschelle was hired six (6) years after Lambert, he was given a hire date of six (6) years prior to Lambert's.

ANSWER: Defendant denies the averments set forth in paragraph 25.

26. Defendant has discriminated against Lambert and has treated similarly-situated male employees more favorably in the terms, conditions, and privileges of their employment than Lambert.

ANSWER: Defendant denies the averments set forth in paragraph 26.

27. Lambert was terminated due to her disability and/or record of disability and/or perception of having a disability, and/or in retaliation for requesting a reasonable accommodation and/or requesting Defendant engage in the interactive process.

ANSWER: Defendant denies the averments set forth in paragraph 27.

28. All reasons proffered by Defendant for adverse actions taken by it regarding Lambert's employment are pretextual.

ANSWER: Defendant denies the averments set forth in paragraph 28.

29. Defendant acted willfully, intentionally and with reckless indifference for Lambert's legally protected rights.

ANSWER: Defendant denies the averments set forth in paragraph 29.

30. Lambert has suffered harm as a result of Defendant's violations of law.

ANSWER: Defendant denies the averments set forth in paragraph 30.

V. Causes of Action

Count One – ADA Violation.

31. Lambert incorporates paragraphs one (1) through thirty (30) of her Complaint as though fully restated and alleged herein.

ANSWER: Defendant incorporates its answers to paragraphs 1-30.

32. Defendant unlawfully discriminated against Lambert because of her disability, and/or record of disability and/or because it regarded her as having a disability, and/or because she requested reasonable accommodations for her disability and/or requested Defendant engage in the interactive process.

ANSWER: Defendant denies the averments set forth in paragraph 32.

33. Defendant has subjected Lambert to terms and conditions of employment that are less favorable than those enjoyed by similarly situated non-disabled employees.

ANSWER: Defendant denies that averments set forth in paragraph 33.

34. Defendant's actions violate the ADA, 42 U.S.C. § 12101 et. seq.

ANSWER: Defendant denies the averments set forth in paragraph 34.

35. Defendant's unlawful actions were willful, intentional, and done with reckless disregard for Lambert's federally protected civil rights.

ANSWER: Defendant denies the averments set forth in paragraph 35.

36. Lambert has and continues to suffer harm as a result of Defendant's unlawful actions.

ANSWER: Defendant denies the averments set forth in paragraph 36.

Count Two – Title VII Gender Discrimination.

37. Lambert hereby incorporates paragraphs one (1) through thirty-five (35) of her Complaint as though fully restated and alleged herein.

ANSWER: Defendant incorporates its answers to paragraphs 1-36.

38. Defendant has discriminated against Lambert by treating similarly-situated male employees more favorably as to the terms and conditions of their employment in violation of

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., as amended, 42 U.S.C. § 1981a.

ANSWER: Defendant denies the averments set forth in paragraph 38.

39. Defendant acted with malice or reckless indifference to Lambert's legal rights.

ANSWER: Defendant denies the averments set forth in paragraph 39.

40. Lambert has and continues to suffer harm as a result of Defendant's unlawful actions.

ANSWER: Defendant denies the averments set forth in paragraph 40.

WHEREFORE, Defendant denies that Plaintiff is entitled to relief of any type and prays that Plaintiff take nothing by way of her Complaint.

AFFIRMATIVE AND OTHER DEFENSES

1. All of Defendant's actions with regard to Plaintiff's employment were taken for legitimate, non-discriminatory, non-retaliatory reasons.

2. Plaintiff's claims are barred to the extent they exceed the scope of her charge of discrimination.

3. Plaintiff's claims are barred in whole or in part by the applicable statute of limitations.

4. Accommodating Plaintiff's alleged disability would have imposed an undue hardship on the operation of Defendant's business.

5. Plaintiff fails to state a claim for punitive damages under Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, any other federal statute, or state law.

6. Plaintiff is not entitled to punitive damages because Defendant's actions were not malicious, egregious, in bad faith, or in willful or reckless disregard of any of Plaintiff's legal

rights.

7. Plaintiff has failed to mitigate her damages.

Defendant reserves the right to add to or amend its affirmative and other defenses as discovery progresses.

Jane Ann Himsel (#15192-29)
Brian L. Mosby (#26096-29)
LITTLER MENDELSON, P.C.
Chase Tower/Circle Building
111 Monument Circle, Suite 702
Indianapolis, IN 46204
Telephone: 317.287.3600
Facsimile: 317.636.0712
E-mail: jhimsel@littler.com
E-mail: bmosby@littler.com

/s/ Jane Ann Himsel

Jane Ann Himsel (#15192-49)
Brian L. Mosby (#26096-29)

*Counsel for Defendant Hussey-Mayfield
Memorial Public Library*

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of August 2010, I caused a copy of the foregoing *Answer to Plaintiff's Complaint and Demand for Jury Trial* to be filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Richard McMinn
John H. Haskin
HASKIN & LARUE
255 North Alabama Street
Indianapolis, IN 46204
rmcminn@hlllaw.com
jhaskin@hlllaw.com

/ s / Jane Ann Himsel