

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS**

**Phillip Hayes,**

**Plaintiff,**

v.

**Case No. 13-2322-JWL**

**Unified Government of  
Wyandotte County/Kansas City, Kansas,**

**Defendant.**

**MEMORANDUM & ORDER**

Plaintiff has filed suit against defendant alleging claims for retaliation under Title VII of the Civil Rights Act of 1964; race discrimination under 42 U.S.C. § 1981; and violations of the Equal Protection Clause of the Fourteenth Amendment pursuant to 42 § U.S.C. 1983. This matter is presently before the court on defendant's motion to dismiss plaintiff's punitive damages claim (doc. 45) on the grounds that punitive damages are not available against a municipality for the substantive claims asserted by plaintiff. Plaintiff has not responded to the motion.

Despite the fact that the motion is unopposed and the court could grant the motion on that basis alone, *see* D. Kan. Rule 7.4, the court grants the motion on the merits as it is undisputed that defendant is a municipality and that punitive damages are not recoverable against a municipality. *See City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271 (1981) (punitive damages not recoverable against municipality in section 1983 suit); *Bolden v. City of Topeka*,

441 F.3d 1129, 1134 (10th Cir. 2006) (section 1983 provides the exclusive remedy for damages against municipality for claims which arise under section 1981); 42 U.S.C. § 1981a(b)(1) (exempting government entities from the punitive damages provision of Title VII).

**IT IS THEREFORE ORDERED BY THE COURT THAT** defendant's motion to dismiss plaintiff's punitive damages claim (doc. 45) is granted.

**IT IS SO ORDERED.**

Dated this 29<sup>th</sup> day of December, 2014, at Kansas City, Kansas.

s/ John W. Lungstrum  
John W. Lungstrum  
United States District Judge