

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 12-11117-MLW

FRIEDRICH LU,  
**Plaintiff,**

v.

GEORGE HULME, in his individual  
capacity and in his official capacity,  
TRUSTEES OF THE BOSTON PUBLIC  
LIBRARY,  
**Defendants.**

**DEFENDANT GEORGE HULME'S ANSWER TO PLAINTIFF'S VERIFIED  
COMPLAINT**

Defendant George Hulme ("Hulme" or "Defendant") hereby answers Plaintiff Friedrich Lu's Verified Complaint as follows:

1. Admitted.
2. Hulme admits that he is named in his official and individual capacities.
3. To the extent that Plaintiff is alleging that the Hulme is a state actor, Hulme admits that his official actions are carried out on behalf of the City of Boston. As for the remainder of the allegations in Paragraph 3, these allegations do not pertain to the Defendant and, therefore, do not require a response.
4. The allegations contained in Paragraph 4 do not pertain to the Defendant and, therefore, no answer is required. To the extent, however, that Paragraph 4 can be construed as alleging facts against the Defendant, they are denied.
5. The allegations in Paragraph 5 do not pertain to the Defendant and, therefore, no answer is required. To the extent that Paragraph 5 can be construed as alleging facts against the Defendant, they are denied.
6. Defendant admits that he spoke briefly with the Plaintiff on or about June 13, 2012. As to the remainder of the allegations against Hulme in Paragraph 6, they are denied as characterized.

7. The allegations contained in Paragraph 7 contain descriptions of some events that were not witnessed by the Defendant and, therefore, no answer is required. To the extent that Paragraph 7 contains specific allegations against Defendant Hulme, they are denied as characterized.
8. Defendant denies the allegations contained in Paragraph 8 and notes that the BPL is open for use by all members of the general public.
9. Defendant Hulme admits that official job title was “Manager of Library Buildings: Shipping, Receiving and Security,” rather than the title stated in Paragraph 9 of the Complaint. Defendant Hulme further admits that he was a recipient of a 2010 Shattuck Public Service Award. As to any remaining factual allegations against Defendant Hulme, they are denied.
10. Defendant denies the allegations contained in Paragraph 10 and notes that the BPL is open for use by all members of the general public, including Plaintiff.
11. Defendant denies the allegations contained in Paragraph 11 and notes that the BPL has published rules for patron use of the library’s facilities.
12. Defendant denies the allegations contained in Paragraph 12. To the extent that the BPL has limited the amount of items that patrons may bring into the BPL, any such limitation is based on its “Appropriate Library Use Policy.”
13. Defendant denies the allegations contained in Paragraph 13. To the extent that Plaintiff is alleging that Defendant denied him access to the BPL and interfered with his Constitutional rights, such allegations are denied.
14. Defendant denies the allegations contained in Paragraph 14. To the extent that Plaintiff is alleging that Defendants interfered with his rights under the Massachusetts Civil Rights Act, M.G.L. c. 12, § 11, such allegations are denied.
15. Paragraph 15 does not set forth any factual allegations and, therefore, does not require a response. To the extent that Paragraph 15 can be construed as alleging facts against the Defendant, they are denied.

### **AFFIRMATIVE DEFENSES**

#### **First Affirmative Defense**

Plaintiff’s complaint fails to state a claim upon which relief may be granted.

### Second Affirmative Defense

Plaintiff's injuries and/or damages, if any, were proximately caused by his own negligent or intentional conduct and/or by the conduct of others, not by the conduct of the Defendant.

### Third Affirmative Defense

Defendant, at all times, acted in good faith upon reasonable belief that his actions were in accordance with the Constitution and laws of the United States and the Commonwealth of Massachusetts.

### Fourth Affirmative Defense

Plaintiff is by his own acts, omissions or negligence estopped by asserting any claims against Defendant.

### Fifth Affirmative Defense

The Defendant is immune from suit as he was engaged in discretionary functions.

### Sixth Affirmative Defense

The Defendant's acts and conduct were performed according to, and protected by, law and/or legal process and, therefore, the Plaintiff cannot recover.

### Seventh Affirmative Defense

None of the Defendant's acts or omissions were a proximate cause of injuries or damages, if any, allegedly sustained by the Plaintiff. Nor were these alleged injuries or damages caused by any person or entity within the Defendant's responsibility or control.

### Eight Affirmative Defense

The Defendant is immune from suit because his actions are protected by the doctrine of qualified immunity.

### Ninth Affirmative Defense

Plaintiff has not been deprived of any rights secured by either the Constitution, the laws of the United States or of the Commonwealth of Massachusetts.

### Tenth Affirmative Defense

Plaintiff's claims are barred by the doctrine of laches and/or the statute of limitations.

**DEMAND FOR JURY TRIAL**

Defendant, George Hulme, hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

GEORGE HULME,

By his attorneys:

William F. Sinnott  
Corporation Counsel

/s/Caroline O. Driscoll  
Caroline O. Driscoll, BBO # 647916  
Assistant Corporation Counsel  
City of Boston Law Department  
Room 615, City Hall  
Boston, MA 02201  
caroline.driscoll@cityofboston.gov  
(617) 635-4925

Dated: June 12, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that on June 12, 2013, I filed this document through the Court's CM/ECF system and that a copy will be emailed to Plaintiff Lu as agreed through prior communication.

/s/Caroline O. Driscoll  
Caroline O. Driscoll