

IN THE CIRCUIT COURT OF COUNTY, MISSISSIPPI

AND PLAINTIFFS

VS.

NO.

DEFENDANTS

SEPARATE ANSWER AND DEFENSES OF SCHOOL DISTRICT  
and  
THE BOARD OF TRUSTEES, SCHOOL DISTRICT

COME THE DEFENDANTS, SCHOOL DISTRICT and THE BOARD OF TRUSTEES, SCHOOL DISTRICT, through Counsel, responding to Complaint filed against them by Plaintiffs and say:

FIRST DEFENSE

The Complaint of each Plaintiff fails to state a claim upon which relief may be granted against these Defendants, and should, therefore, be dismissed with all costs assessed against Plaintiffs.

SECOND DEFENSE

The Defendant School District is; pursuant to the provisions of Section 37-6-5, Mississippi Code, 1972, Annotated, as amended, a political subdivision of the State of Mississippi. The Defendant Board of Trustees, School District, is the governing body of defendant School District, under the pages of Section 37-6-7 of said Mississippi Code. At all times and in all things alleged in the Complaint of Plaintiffs, each of these said Defendants was acting within the scope of authority granted to them through statutes (to include; but not limited to; Section 11-46-1 et seq. Mississippi Code, 1972, Annotated, as amended), law and the Constitution of the State of Mississippi; and, said defendants are, therefore, immune from liability to and as alleged by these Plaintiffs.

THIRD DEFENSE

The sole proximate cause; or, in the alternative a contributing proximate cause; of all damages alleged in the Complaint to have accrued to Plaintiffs is the negligence of the Plaintiff . In the alternative, the act, acts or omissions of the Plaintiff constitute an efficient intervening cause which was the sole, proximate and only cause of the incident complained of and the damages alleged.

FOURTH DEFENSE

If, as alleged, Plaintiffs suffered injury or damage, the said injury and damage was the sole result of acts or omissions of persons or entities, to include the Plaintiff \_\_\_\_\_, and other than these Defendants; and, for which acts or omissions by them, these Defendants are not liable. In the alternative, the acts or omissions of persons or entities, to include the Plaintiff \_\_\_\_\_, and other than these Defendants constitute an efficient intervening cause or causes which were the sole, proximate and only cause or causes of incidents and damages alleged by Plaintiffs.

#### FIFTH DEFENSE

Plaintiff \_\_\_\_\_ is without standing to assert the claims against these Defendants set forth in the Complaint.

#### SIXTH DEFENSE

The claim for punitive damages asserted in the complaint is made in violation of the due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution and Section 14 of the Mississippi Constitution and, therefore, constitutionally invalid.

#### SEVENTH DEFENSE

The claim for punitive damages asserted in the complaint is constitutionally invalid because an award of punitive damages, under Mississippi law, made without proof of every element of such claim beyond a reasonable doubt, violates the due process rights of the defendants under the Fourteenth Amendment to the Constitution of the United States and Section 14 of the Constitution of the State of Mississippi.

#### EIGHTH DEFENSE

Alternatively, unless the defendants' liability for punitive damages and the appropriate amount of punitive damages to be assessed are required to be established by clear and convincing evidence, any award of punitive damages would violate their due process rights guaranteed by the Fourteenth Amendment to the United States Constitution and Section 14 of the Mississippi Constitution.

#### NINTH DEFENSE

The claim for punitive damages asserted in the complaint is constitutionally invalid because any award of punitive damages under Mississippi law, without requiring a bifurcated trial as to all punitive damages issues, would violate the defendants' due process rights guaranteed by the Fourteenth Amendment to the United States Constitution and Section 14 of the Mississippi Constitution.

#### TENTH DEFENSE

The claim for punitive damages asserted in the complaint is constitutionally invalid because, under Mississippi law, an award of punitive damages which is subject to no predetermined upper limit, either as a maximum multiple of compensatory damages or an

absolute maximum amount, violates the due process rights guaranteed to the defendants by the Fourteenth Amendment to the Constitution of the United States and Section 14 of the Constitution of the State of Mississippi; and, such claim or award may result in a violation of defendants' rights to be not subject to excessive fine; pursuant to Section 28, Constitution of the State of Mississippi.

#### ELEVENTH DEFENSE

The claim for punitive damages asserted in the complaint is constitutionally invalid because an award of punitive damages by a jury that: (1) is not provided standards of sufficient clarity and uniformity for determining the appropriateness, or the appropriate size, of a punitive damages award, (2) is not instructed on the limits of punitive damages imposed by the applicable principles of deterrence and punishment and is not instructed to award only that amount of punitive damages as reflects a necessary relationship between the amount of punitive damages and the actual harm in question, (3) is not expressly prohibited from awarding punitive damages or determining the amount of an award of punitive damages, in whole or in part, on the basis of invidiously discriminatory characteristics, (4) is permitted to award punitive damages under standards for determining liability for and the amount of punitive damages that are vague and arbitrary and do not define, with sufficient clarity to give advance notice to a potential defendant, of (a) the prohibited conduct or mental state that permits an award of punitive damages, and (b) the amount of punitive damages which are permissible, and (5) if not subject to trial and appellate court review on the basis of uniform and objective standards, would violate the defendants' due process and equal protection rights guaranteed by the Fourteenth Amendment to the United States Constitution and Section 14 of the Mississippi Constitution and may result in an excessive punitive damages award in violation of Section 28 of the Mississippi Constitution.

#### TWELFTH DEFENSE

The claim for punitive damages asserted in the Complaint filed by Plaintiffs against these defendants is not warranted by existing law; nor, is said claim filed in good faith for the extension, modification or reversal of existing law. Judgment may not be returned against these defendants upon said claim and said claim is interposed here merely for the purpose of harassing these Defendants. Complaint of Plaintiffs upon allegations upon which punitive damages are sought against these defendants is subject to the provisions of M.R.C.P. 11; and, these Defendants request all relief authorized to them pursuant to said Rule. Further, said claim for punitive damages asserted against these Defendants is not well taken, is frivolous and without substantial justification; the assertion of which said claim and the allegations of the Complaint upon which said claim is made are subject to the Litigation Accountability Act of 1988, Mississippi Code, 1972, Annotated, as amended, Section 11-55-1, et seq; and, for which action of Plaintiffs, these Defendants request and should be awarded Judgment of Sanctions against Plaintiffs and their Counsel pursuant thereto.

AND NOW, without waiving any other defense herein asserted, these Defendants; School District and The Board of Trustees, School District; answer separately the allegations of Plaintiff's Complaint as follows:

#### I.

Having no knowledge of the allegations of Paragraph I of the Complaint, these Defendants deny the same.

II.

These Defendants admit that Plaintiff was at one time an employee of Defendant School District. These Defendants admit their existence as respectively described in Sub-Paragraphs 5 and 6 of Paragraph II the Complaint and that service of process may be had upon them in the manner therein described. Having no knowledge of the allegations of Sub-Paragraphs 1, 2, 3, 4, 7 and 8 of Paragraph II of the Complaint, these Defendants deny the same; and, further, they and each of them deny each and every other allegation and inference which might be drawn there from of Paragraph II of the Complaint.

III.

These Defendants admit the product was sold to and thereafter delivered to Defendant School District on/about , . These Defendants admit Plaintiff was at his/her place of employment with , to-wit: School, on , . These Defendants admit Defendant School District is governed by Defendant Board of Trustees. These Defendants deny said product was sold to Defendant School District by Defendant . Having no knowledge of any relationship between the other named defendants, these Defendants deny the allegations of same; and, these Defendants deny each and every other allegation and inference which might be drawn there from of Paragraph III of the Complaint.

IV.

These Defendants admit that Plaintiff was a house cleaner employed by the Defendant . These Defendants deny each and every other allegation and any inference which might be drawn therefrom of Paragraph IV of the Complaint.

V.

Having no knowledge of the allegations of Paragraph V of the Complaint, these Defendants deny the same. These Defendants specifically deny that they, or either of them, acted or failed to act in any manner as stated or inferred from the allegations of Paragraph V of the Complaint; and, specifically deny that they, or either of them, are liable to Plaintiff as alleged or in any manner.

VI.

These Defendants deny the allegations of Paragraph VI of the Complaint and any inference which might be drawn from them.

ANSWERING FURTHER, these Defendants deny that they, or either of them, are liable to Plaintiffs, or either of them, for any injury, loss or damage to Plaintiffs or either of them as alleged in the Complaint; or, otherwise.

AND NOW, HAVING FULLY ANSWERED, Defendants School District and The Board of Trustees of School District, pray the Complaint filed against them be dismissed, with prejudice; and, that they, and each of them, be discharged to go hence with their costs and with all other relief hereinabove asserted by them and to which they are entitled.

RESPECTFULLY SUBMITTED,

SCHOOL DISTRICT;  
THE BOARD OF TRUSTEES,

By: \_\_\_\_\_

CERTIFICATE OF SERVICE

I certify that I have, on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, served the above Separate Answer and Defenses of the Defendants \_\_\_\_\_ School District and The Board of Trustees, \_\_\_\_\_ School District upon \_\_\_\_\_, attorney of record of the Plaintiffs by placing a signed, true and correct copy thereof in the United States Postal Service, postage paid and addressed to the usual post office and/or street address at which said attorney is last known to receive said mail; to-wit:

This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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