

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 16-cv-00966-RBJ

KENNYBERG ARAUJO, and
FRANCIS GONZALES,

Plaintiffs,

V.

THE CITY OF FORT COLLINS, a municipality,
DONALD VAGGE, former Deputy Chief of Police, in his individual capacity, and
GARY SHAKLEE, Police Sergeant, in his individual capacity,

Defendants.

ANSWER TO FIRST AMENDED COMPLAINT

DEFENDANT DONALD VAGGE, by and through his attorneys, VAUGHAN & DeMURO, answers Plaintiffs' First Amended Complaint as follows:

I. INTRODUCTION

1. Defendant Vagge denies the allegations in paragraph 1 of Plaintiffs' First Amended Complaint.

2. Defendant Vagge denies the allegations in paragraph 2 of Plaintiffs' First Amended Complaint.

3. In answer to paragraph 3, Defendant Vagge states that the annual reviews speak for themselves and, therefore, Defendant Vagge need not admit or deny those allegations in paragraph 3 of Plaintiffs' First Amended Complaint. In further answer to paragraph 3, Defendant Vagge is without knowledge as to the allegations relating to the

school resource officer and therefore denies them. Defendant Vagge denies any remaining allegations in paragraph 3 of Plaintiffs' First Amended Complaint.

4. Defendant Vagge is without knowledge regarding the allegation in paragraph 4 of Plaintiffs' First Amended Complaint regarding Det. Araujo's being praised. Defendant Vagge admits he became aware of Det. Araujo's grievance against Sgt. Shaklee when it was brought to Defendant Vagge, who sought to have it investigated. Defendant admits, on information and belief, that Det. Araujo now works as a police officer with the Denver Police Department. Defendant otherwise denies the remaining allegations in paragraph 4 of Plaintiffs' First Amended Complaint.

II. JURISDICTION AND VENUE

5. In answer to paragraph 5 of Plaintiffs' First Amended Complaint, Defendant Vagge admits Plaintiffs are attempting to assert claims under 28 U.S.C. §1331 and §1343; and under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.*, 42 U.S.C. § 1981, and 42 U.S.C. § 1983, but Defendant Vagge denies all allegations that Plaintiffs attempt to make under those laws. Defendant otherwise denies the remaining allegations in paragraph 5.

6. In answer to paragraph 6 of Plaintiffs' First Amended Complaint, Defendant Vagge admits venue is proper in this Court. Defendant Vagge otherwise denies the remaining allegations in paragraph 6.

7. Defendant Vagge is without knowledge regarding the allegations in paragraph 7 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies these allegations in paragraph 7.

8. Defendant Vagge is without knowledge regarding the allegations in paragraph 8 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies these allegations in paragraph 8.

9. In answer to paragraph 9, Defendant Vagge admits that discrimination claims under 42 U.S.C. § 1981 and 42 U.S.C. § 1983 do not contain administrative exhaustion requirements. Defendant Vagge otherwise denies the remaining allegations in paragraph 9.

III. PARTIES

10. Defendant Vagge admits the allegations in paragraph 10 of Plaintiffs' First Amended Complaint.

11. Defendant Vagge admits the allegations in paragraph 11 of Plaintiffs' First Amended Complaint.

12. In answer to paragraph 12 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that the City of Fort Collins is a Colorado municipality and that the Fort Collins Police Department is the current employer of Plaintiff Gonzales and the former employer of Plaintiff Araujo. Defendant Vagge is without knowledge regarding the remaining allegations in paragraph 12 and, therefore, denies the same.

13. In answer to paragraph 13 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that he is the former deputy chief of police for the Fort Collins Police Department. Defendant Vagge otherwise denies the remaining allegations in paragraph 13, and specifically denies that he was the "final policymaker" for Fort Collins.

14. Defendant Vagge admits that he took all actions as a deputy chief within the course and scope of his employment, but he denies the allegations in paragraph 14 of Plaintiffs' First Amended Complaint, including that he denies he was the final policymaker.

15. In answer to paragraph 15 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that Sgt. Shaklee is currently employed by the FCPD as a police sergeant, and he is the former supervisor of Det. Araujo. Defendant Vagge otherwise denies the remaining allegations in paragraph 15.

16. The allegations in paragraph 16 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 16.

IV. GENERAL ALLEGATIONS

I. The Fort Collins Police Department Has Fostered and Condoned a Culture of Discrimination Against Latino/Hispanic Officers for Decades.

17. Regarding the allegations in paragraph 17 of Plaintiffs' First Amended Complaint, Defendant Vagge is without knowledge as to the allegedly higher standard, and therefore denies these allegations.

18. Defendant Vagge denies the allegations in paragraph 18 of Plaintiffs' First Amended Complaint.

A. The FCPD has a Policy, Practice, or Custom of Systematically Discriminating Against Latino/Hispanic Officers by Routinely Denying Them Promotional Opportunities.

19. Defendant Vagge denies the allegations in paragraph 19 of Plaintiffs' First Amended Complaint.

20. Defendant Vagge denies the allegations contained in paragraph 20, except that he admits only that the executive staff had involvement at various times in the promotional process, which at times included some subjective factors.

21. Defendant Vagge is without knowledge regarding the allegations in paragraph 21 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 21.

22. Defendant Vagge is without knowledge regarding the allegations in paragraph 22 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 22.

23. Defendant Vagge was not employed at FCPD when this allegedly took place and is without knowledge regarding the allegations in paragraph 23 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 23.

24. Defendant Vagge is without knowledge regarding the allegations in paragraph 24 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 24.

25. Defendant Vagge admits that Officer Martinez left FCPD for the private sector but is without knowledge regarding the remaining allegations in paragraph 25 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 25.

26. Defendant Vagge admits that Lt. Pino was the only Hispanic lieutenant while Defendant Vagge was employed at FCPD. Defendant Vagge is otherwise without

knowledge regarding the remaining allegations in paragraph 26 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 26.

27. Defendant Vagge is without knowledge regarding the allegations in paragraph 27 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 27.

28. Defendant Vagge denies the allegations contained in paragraph 28.

29. Defendant Vagge admits the article was published but is without knowledge regarding the remaining allegations in paragraph 29 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 29.

30. Defendant Vagge denies the allegations in paragraph 30 of Plaintiffs' First Amended Complaint.

31. Defendant Vagge denies the allegations in paragraph 31 of Plaintiffs' First Amended Complaint.

B. The FCPD Has a Policy, Practice, or Custom of Discriminating Against Latino/Hispanic Officers by Holding Them to a Higher Standard than their White Counterparts in Disciplinary Matters.

32. Defendant Vagge denies the allegations in paragraph 32 of Plaintiffs' First Amended Complaint to the extent they relate to the period during which he was Deputy Chief. Defendant Vagge otherwise is without knowledge of the allegations in paragraph 32 of Plaintiffs' First Amended Complaint and therefore denies them.

33. Defendant Vagge denies the allegations in paragraph 33 of Plaintiffs' First Amended Complaint to the extent they apply to the time he was Deputy Chief. Defendant Vagge otherwise is without knowledge regarding the allegations in paragraph 33 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 33.

34. Defendant Vagge admits that the City Manager requested officers be present, but is otherwise without knowledge regarding the remaining allegations in paragraph 34 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 34.

35. Defendant Vagge was not the Patrol Deputy Chief during the allegations in paragraphs 35 to 42 and is without knowledge regarding the allegations in paragraph 35 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 35.

36. Defendant Vagge is without knowledge regarding the allegations in paragraph 36 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 36.

37. Defendant Vagge is without knowledge regarding the allegations in paragraph 37 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 37.

38. Defendant Vagge is without knowledge regarding the allegations in paragraph 38 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 38.

39. Defendant Vagge is without knowledge regarding the allegations in paragraph 39 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 39.

40. Defendant Vagge is without knowledge regarding the allegations in paragraph 40 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 40.

41. Defendant Vagge is without knowledge regarding the allegations in paragraph 41 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 41.

42. Defendant Vagge is without knowledge regarding the allegations in paragraph 42 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 42.

43. Defendant Vagge denies the allegations in paragraph 43 of Plaintiffs' First Amended Complaint to the extent that they apply to the time when he was the Deputy Chief. Defendant Vagge is otherwise without knowledge as to the allegations in paragraph 43 of Plaintiffs' First Amended Complaint and therefore denies them.

C. The FCPD Has a Policy, Practice, or Custom of Discriminating Against Latino/Hispanic Officers During its Hiring Process.

44. Defendant Vagge denies the allegations in paragraph 44 of Plaintiffs' First Amended Complaint.

45. Defendant Vagge is without knowledge regarding the allegations in paragraph 45 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 45.

46. Defendant Vagge is without knowledge regarding the allegations in paragraph 46 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 46.

47. Defendant Vagge is without knowledge regarding the allegations in paragraph 47 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 47.

48. Defendant Vagge is without knowledge regarding the allegations in paragraph 48 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 48.

49. Defendant Vagge is without knowledge regarding the allegations in paragraph 49 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 49.

50. Defendant Vagge is without knowledge regarding the allegations in paragraph 50 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 50.

51. Defendant Vagge is without knowledge regarding the allegations in paragraph 51 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 51.

52. Defendant Vagge admits that Bryce Gonzales was hired and attended the Police Academy but is without knowledge regarding the allegations in paragraph 52 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 52.

53. Defendant Vagge is without knowledge regarding the allegations in paragraph 53 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 53.

54. Defendant Vagge is without knowledge regarding the allegations in paragraph 54 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 54.

55. Defendant Vagge admits the allegations in paragraph 55 of Plaintiffs' First Amended Complaint.

56. Defendant Vagge admits that officers sometimes are assigned to different training officers but is otherwise without knowledge regarding the remaining allegations in paragraph 56 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 56.

57. Defendant Vagge is without knowledge regarding the allegations in paragraph 57 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 57.

58. Defendant Vagge is without knowledge regarding the allegations in paragraph 58 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 58.

59. Defendant Vagge is without knowledge regarding the allegations in paragraph 59 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 59.

60. Defendant Vagge admits that Joel Tower extended his training but is otherwise without knowledge regarding the remaining allegations in paragraph 60 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 60.

61. Defendant Vagge is without knowledge regarding the allegations in paragraph 61 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 61.

62. Defendant Vagge is without knowledge regarding the allegations in paragraph 62 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 62.

63. Defendant Vagge is without knowledge regarding the allegations in paragraph 63 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 63.

64. Defendant Vagge is without knowledge regarding the allegations in paragraph 64 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 64.

D. The FCPD Has a Pattern, Practice, or Custom of Retaliating Against Latino/Hispanic Officers Who Bring Complaints or Who Aid Those Bringing Complaints of Race Discrimination.

65. Defendant Vagge admits that Lt. Pino filed a complaint. Defendant Vagge denies the remaining allegations contained in paragraph 65.

66. In answer to paragraph 66 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that Lt. Pino was removed from his post on the Northern Colorado Drug Task Force ("NCDTF") in 2012. Defendant Vagge otherwise denies the remaining allegations in paragraph 66.

67. Defendant Vagge is without knowledge regarding the allegations in paragraph 67 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 67.

68. Defendant Vagge denies the allegations in paragraph 68 of Plaintiffs' First Amended Complaint.

69. Defendant Vagge admits that Det. Araujo filed a complaint. Defendant Vagge denies the remaining allegations contained in paragraph 69.

70. In answer to paragraph 70 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that Plaintiff Araujo brought a grievance, requested an internal investigation, and filed EEOC charges. Defendant Vagge otherwise denies the remaining allegations in paragraph 70.

71. Defendant Vagge denies the allegations in paragraph 71 of Plaintiffs' First Amended Complaint.

72. Defendant Vagge is without knowledge regarding the allegations in paragraph 72 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 72.

73. Defendant Vagge is without knowledge regarding the allegations in paragraph 73 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 73.

74. To the extent that these allegations apply to the time that he was Deputy Chief, Defendant Vagge denies the allegations in paragraph 74 of Plaintiffs' First Amended Complaint and is without knowledge as to any remaining allegations.

75. To the extent that these allegations apply to the time when he was Deputy Chief, Defendant Vagge denies the allegations contained in paragraph 75. Defendant Vagge otherwise denies the allegations in paragraph 75 of Plaintiffs' First Amended Complaint.

76. To the extent that these allegations apply to the time when he was Deputy Chief, Defendant Vagge denies the allegations contained in paragraph 76. Defendant Vagge is without knowledge of the remaining allegations in paragraph 76 of Plaintiffs' First Amended Complaint and therefore denies them.

77. To the extent that these allegations apply to the time when he was Deputy Chief, Defendant Vagge denies the allegations contained in paragraph 77. Defendant Vagge is without knowledge as to the remaining allegations in paragraph 77 of Plaintiffs' First Amended Complaint and therefore denies them.

II. Defendants Vagge and Shaklee Have Perpetuated and Deepened the Culture of Discrimination Against the FCPD's Latino/Hispanic Officers Throughout Their Careers.

78. Defendant Vagge denies the allegations in paragraph 78 of Plaintiffs' First Amended Complaint.

79. Defendant Vagge denies the allegations in paragraph 79 of Plaintiffs' First Amended Complaint.

A. Defendant Vagge

I. *Final Policymaker*

80. Defendant Vagge denies the allegations in paragraph 80 of Plaintiffs' First Amended Complaint.

81. Defendant Vagge denies the allegations in paragraph 81 of Plaintiffs' First Amended Complaint.

82. Defendant Vagge denies the allegations in paragraph 82 of Plaintiffs' First Amended Complaint.

ii. *Discriminatory Conduct*

83. Defendant Vagge denies the allegations in paragraph 83 of Plaintiffs' First Amended Complaint.

84. Defendant Vagge denies the allegations in paragraph 84 of Plaintiffs' First Amended Complaint.

85. Defendant Vagge is without knowledge regarding the allegations in paragraph 85 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 85.

86. In answer to paragraph 86 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that Lt. Pino submitted a grievance and that grievance speaks for itself. Defendant Vagge otherwise denies the remaining allegations in paragraph 86.

87. Defendant Vagge is without knowledge regarding the allegations in paragraph 87 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 87.

88. Defendant Vagge is without knowledge regarding the allegations in paragraph 88 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 88.

89. In answer to paragraph 89 of Plaintiffs' First Amended Complaint, Defendant Vagge states that Fort Collins' HR Department found that his actions were not discriminatory or retaliatory. Defendant Vagge is otherwise without knowledge regarding the allegations in paragraph 89 of Plaintiffs' First Amended Complaint and, therefore, denies the same.

90. In answer to paragraph 90 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that Lt. Pino was removed from his post as lieutenant of the NCDTF. Defendant Vagge otherwise denies the remaining allegations in paragraph 90.

91. Defendant Vagge admits the allegations in paragraph 91 of Plaintiffs' First Amended Complaint because the Human Resources Department found that his actions had not been discriminatory or retaliatory.

92. Defendant Vagge denies the allegations in paragraph 92 of Plaintiffs' First Amended Complaint.

B. Defendant Shaklee

93. The allegations in paragraph 93 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 93.

94. The allegations in paragraphs 94 and 94(a)-94(e) of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraphs 94 and 94(a)-94(e).

95. The allegations in paragraph 95 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 95.

96. Defendant Vagge admits that Shaklee was removed but is otherwise without knowledge regarding the remaining allegations in paragraph 96 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 96.

97. In answer to paragraph 97 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that Defendant Shaklee received a promotion to sergeant. Defendant Vagge otherwise denies the remaining allegations in paragraph 97.

98. The allegations in paragraph 98 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such

allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 98.

99. The allegations in paragraph 99 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 99.

100. Defendant Vagge denies the allegations in paragraph 100 of Plaintiffs' First Amended Complaint.

101. Defendant Vagge denies the allegations in paragraph 101 of Plaintiffs' First Amended Complaint.

102. The allegations in paragraph 102 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 102.

103. Defendant Vagge denies the allegations in paragraph 103 of Plaintiffs' First Amended Complaint.

C. Fort Collins Ratified the Discriminatory Behaviors of Defendants Vagge and Shaklee, Perpetuating the Policy, Practice, and Custom of Discrimination within the FCPD.

104. Defendant Vagge admits the allegations in paragraph 104 of Plaintiffs' First Amended Complaint.

105. Defendant Vagge denies the allegations in paragraph 105 of Plaintiffs' First Amended Complaint.

106. Defendant Vagge admits another survey was conducted but is otherwise without knowledge regarding the remaining allegations in paragraph 106 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 106.

107. Defendant Vagge is without knowledge regarding the allegations in paragraph 107 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 107.

108. Defendant Vagge is without knowledge regarding the allegations in paragraph 108 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 108.

109. Defendant Vagge denies the allegations in paragraph 109 of Plaintiffs' First Amended Complaint.

110. Defendant Vagge is without knowledge regarding the allegations in paragraph 110 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 110.

III. Plaintiff Gonzales Has Suffered from the Same Discriminatory and Retaliatory Policies, Practices, and Customs as his Latino/Hispanic Counterparts.

111. Defendant Vagge denies the allegations in paragraph 111 of Plaintiffs' First Amended Complaint.

112. Defendant Vagge denies the allegations in paragraph 112 of Plaintiffs' First Amended Complaint.

A. Sergeant Gonzales Has Dedicated His Life to Serving His Community and is Well Respected on the Force

113. On information and belief, Defendant Vagge admits the allegations in paragraph 113 of Plaintiffs' First Amended Complaint.

114. In answer to paragraph 114 of Plaintiffs' First Amended Complaint, Defendant Vagge states that Plaintiff Gonzales' performance evaluations speak for themselves and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 114.

115. In answer to paragraph 115 of Plaintiffs' First Amended Complaint, Defendant Vagge states that Plaintiff Gonzales' annual reviews speak for themselves and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 115.

116. In answer to paragraph 116 of Plaintiffs' First Amended Complaint, Defendant Vagge states that Plaintiff Gonzales' performance evaluations and annual reviews speak for themselves and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 116.

117. In answer to paragraph 117 of Plaintiffs' First Amended Complaint, Defendant Vagge states that Plaintiff Gonzales' performance evaluations and annual reviews speak for themselves and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 117.

118. In answer to paragraph 118 of Plaintiffs' First Amended Complaint, Defendant Vagge states that Plaintiff Gonzales' performance evaluations and annual reviews speak for themselves and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 118.

119. In answer to paragraph 119 of Plaintiffs' First Amended Complaint, Defendant Vagge states that Plaintiff Gonzales' performance evaluations and annual reviews speak for themselves and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 119.

B. Sergeant Gonzales Was Discriminated Against on the Basis of His Race and National Origin from the Start of His Career with the FCPD.

120. Defendant Vagge denies the allegations in paragraph 120 of Plaintiffs' First Amended Complaint.

121. On information and belief, Defendant Vagge admits the allegations in paragraph 121 of Plaintiffs' First Amended Complaint.

122. Defendant Vagge is without knowledge regarding the allegations in paragraph 122 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 122.

123. Defendant Vagge is without knowledge regarding the allegations in paragraph 123 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 123.

124. Defendant Vagge is without knowledge regarding the allegations in paragraph 124 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 124.

125. Defendant Vagge is without knowledge regarding the allegations in paragraph 125 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 125.

126. Defendant Vagge is without knowledge regarding the allegations in paragraph 126 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 126.

127. Defendant Vagge is without knowledge regarding the allegations in paragraph 127 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 127.

128. Defendant Vagge is without knowledge regarding the allegations in paragraph 128 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 128.

129. Defendant Vagge admits the allegations in paragraph 129 of Plaintiffs' First Amended Complaint.

130. Defendant Vagge is without knowledge regarding the allegations in paragraph 130 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 130.

131. In answer to paragraph 131 of Plaintiffs' First Amended Complaint, Defendant Vagge states that any complaints speak for themselves and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 131.

132. Defendant Vagge is without knowledge regarding the allegations in paragraph 132 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 132.

133. Defendant Vagge is without knowledge regarding the allegations in paragraph 133 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 133.

134. Defendant Vagge denies the allegations in paragraph 134 of Plaintiffs' First Amended Complaint.

C. Deputy Chief Vagge Actively Took Steps to Prevent Plaintiff Gonzales from Being Promoted to Lieutenant on the Basis of Plaintiff Gonzales's Race and National Origin.

135. Defendant Vagge denies the allegations in paragraph 135 of Plaintiffs' First Amended Complaint.

136. Defendant Vagge denies the allegations in paragraph 136 of Plaintiffs' First Amended Complaint.

137. Defendant Vagge admits that he was a sergeant in the administrative wing from 1987-1989 but denies the remaining allegations in paragraph 137 of Plaintiffs' First Amended Complaint.

138. Defendant Vagge remembers an incident of this type involving a different officer but is otherwise without knowledge regarding the remaining allegations in paragraph 138 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 138.

139. Defendant Vagge is without knowledge regarding the allegation in paragraph 139 of Plaintiffs' First Amended Complaint about what Plaintiff "made sure" to do and denies the remaining allegations in paragraph 139.

140. Defendant Vagge is without knowledge regarding the allegations in paragraph 140 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 140.

141. In answer to paragraph 141 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that Sgt. Gonzales began applying for a lieutenant position and was not promoted. Defendant Vagge otherwise denies the remaining allegations in paragraph 141.

142. Defendant Vagge is without knowledge regarding the allegations in paragraph 142 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 142.

143. Defendant Vagge is without knowledge regarding the allegations in paragraph 143 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 143.

144. Defendant Vagge is without knowledge regarding the allegations in paragraph 144 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 144.

145. Defendant Vagge is without knowledge regarding the allegations in paragraph 145 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 145.

146. Defendant Vagge admits that Sgts. Reed and Haywood were promoted but is otherwise without knowledge as to the remaining allegations in paragraph 146 of Plaintiffs' First Amended Complaint and therefore denies them.

147. Defendant Vagge is without knowledge regarding the allegations in paragraph 147 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 147.

148. Defendant Vagge denies the allegations in paragraph 148 of Plaintiffs' First Amended Complaint.

149. Defendant Vagge denies that he blackballed Sgt. Gonzales but is otherwise without knowledge regarding the remaining allegations in paragraph 149 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 149.

150. Defendant Vagge denies the allegations in paragraph 150 of Plaintiffs' First Amended Complaint.

D. Defendant Shaklee Discriminated Against Sgt. Gonzales on the Basis of His Race and National Origin

151. The allegations in paragraph 151 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 151.

152. The allegations in paragraph 152 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 152.

153. The allegations in paragraph 153 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 153.

154. The allegations in paragraph 154 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 154.

155. The allegations in paragraph 155 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 155.

156. The allegations in paragraph 156 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 156.

157. Defendant Vagge is aware that Sgt. Gonzales received an award of some type for this activity. Otherwise, the allegations in paragraph 157 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 157.

158. The allegations in paragraph 158 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 158.

E. In Retaliation for Bringing and Assisting Others in Bringing Complaints of Discrimination, Sgt. Gonzales was Subjected to Adverse Employment Actions and Continues to be Discriminated Against.

159. Defendant Vagge is without knowledge regarding the allegations in paragraph 159 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 159.

160. Paragraph 160 of Plaintiffs' First Amended Complaint states a legal conclusion and, therefore, it is not necessary for Defendant Vagge to admit or deny the allegations. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 160.

161. Defendant Vagge denies the allegations in paragraph 161 of Plaintiffs' First Amended Complaint.

162. In answer to paragraph 162 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that at some point Sgt. Gonzales did not make the eligibility list for promotion to lieutenant. Defendant Vagge otherwise denies the remaining allegations in paragraph 162.

163. Defendant Vagge is without knowledge regarding the allegations in paragraph 163 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 163.

164. Defendant Vagge is without knowledge regarding the allegations in paragraph 164 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 164.

165. Defendant Vagge is without knowledge regarding the allegations in paragraph 165 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 165.

166. Defendant Vagge is without knowledge regarding the allegations in paragraph 166 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 166.

167. In answer to paragraph 167 of Plaintiffs' First Amended Complaint, Defendant Vagge admits, on information and belief, that Laura Lunsford received the assignment. Defendant Vagge otherwise denies the remaining allegations in paragraph 167.

168. Defendant Vagge is without knowledge regarding the allegations in paragraph 168 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 168.

IV. Plaintiff Araujo Has Suffered from the Same Discriminatory and Retaliatory Policies, Practices, and Customs as His Latino/Hispanic Counterparts.

169. Defendant Vagge denies the allegations in paragraph 169 of Plaintiffs' First Amended Complaint.

170. On information and belief, Defendant Vagge admits the allegations in paragraph 170 of Plaintiffs' First Amended Complaint.

171. Defendant Vagge admits that Det. Araujo speaks languages other than English. Defendant Vagge is without knowledge regarding the remaining the allegations in paragraph 171 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the remaining allegations in paragraph 171.

172. Defendant Vagge is without knowledge regarding the allegations in paragraph 172 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 172.

A. Detective Araujo Was on Track to Become a Successful FCPD Officer until He Was Assigned to Sgt. Shaklee's Supervision.

173. Defendant Vagge admits the allegations in paragraph 173 of Plaintiffs' First Amended Complaint.

174. In answer to paragraph 174 of Plaintiffs' First Amended Complaint, Defendant Vagge states that Det. Araujo's performance evaluations speak for themselves and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 174.

175. Defendant Vagge is without knowledge regarding the allegations in paragraph 175 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 175.

176. In answer to paragraph 176 of Plaintiffs' First Amended Complaint, Defendant Vagge states that Det. Araujo's performance evaluations and any discipline speaks for themselves and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 176.

177. In answer to paragraph 177 of Plaintiffs' First Amended Complaint, Defendant Vagge states that Det. Araujo's discipline and FCPD policies speak for themselves and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 177.

178. Defendant Vagge is without knowledge regarding the allegations in paragraph 178 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 178.

179. Defendant Vagge is without knowledge regarding the allegations in paragraph 179 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 179.

180. Defendant Vagge is without knowledge regarding the allegations in paragraph 180 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 180.

181. Defendant Vagge is without knowledge regarding the allegations in paragraph 181 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 181.

182. Defendant Vagge is without knowledge regarding the allegations in paragraph 182 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 182.

183. Defendant Vagge is without knowledge regarding the allegations in paragraph 183 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 183.

184. Defendant Vagge is without knowledge regarding the allegations in paragraph 184 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 184.

185. Defendant Vagge is without knowledge regarding the allegations in paragraph 185 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 185.

186. Defendant Vagge is without knowledge regarding the allegations in paragraph 186 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 186.

187. Defendant Vagge is without knowledge regarding the allegations in paragraph 187 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 187.

188. Defendant Vagge is without knowledge regarding the allegations in paragraph 188 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 188.

189. Defendant Vagge is without knowledge regarding the allegations in paragraph 189 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 189.

190. In answer to paragraph 190 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that at some point Det. Araujo applied for and was accepted to the SWAT team. Defendant Vagge is without knowledge as to the remaining allegations in paragraph 190 of Plaintiffs' First Amended Complaint and therefor denies them.

191. Defendant Vagge is without knowledge regarding the allegations in paragraph 191 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 191.

192. In answer to paragraph 192 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that Shaklee was assigned as the sergeant of the NCDTF in

about 2009. Defendant Vagge otherwise denies the remaining allegations in paragraph 192.

193. In answer to paragraph 193 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that in about January 2012, Plaintiff Araujo was assigned to the NCDTF. Defendant Vagge otherwise denies the remaining allegations in paragraph 193.

194. Defendant Vagge is without knowledge regarding the allegations in paragraph 194 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 194.

195. Defendant Vagge is without knowledge regarding the allegations in paragraph 195 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 195.

196. Defendant Vagge is without knowledge regarding the allegations in paragraph 196 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 196.

196. Defendant Vagge is without knowledge regarding the allegations in paragraph 197 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 197.

B. In 2014, Sgt. Shaklee Fabricated Complaints Against and Initiated an Unjustified Investigation into Det. Araujo in a Successful Scheme to Push Him Out of the FCPD.

198. Defendant Vagge admits the allegations in paragraph 198 of Plaintiffs' First Amended Complaint.

199. In answer to paragraph 199 of Plaintiffs' First Amended Complaint, Defendant Vagge states that Det. Araujo's discipline speaks for itself and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 199.

200. Defendant Vagge denies the allegations in paragraph 200 of Plaintiffs' First Amended Complaint.

201. Defendant Vagge is without knowledge regarding the allegations in paragraph 201 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 201.

202. Defendant Vagge is without knowledge regarding the allegations in paragraph 202 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 202.

203. Defendant Vagge admits that Sgt. Shaklee investigated Det. Araujo for not completing police reports in certain cases and that there was a case involving Sgt. Shaklee's wife, but he is otherwise without knowledge regarding the remaining allegations in paragraph 203 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 203.

204. Defendant Vagge is without knowledge regarding the allegations in paragraph 204 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 204.

205. Defendant Vagge is without knowledge regarding the allegations in paragraph 205 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 205.

206. Defendant Vagge is without knowledge regarding the allegations in paragraph 206 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 206.

207. Defendant Vagge is without knowledge regarding the allegations in paragraph 207 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 207.

208. Defendant Vagge admits, on information and belief, that Det. Araujo had not submitted reports. Defendant Vagge is otherwise without knowledge regarding the allegations in paragraph 208 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the remaining allegations in paragraph 208.

209. Defendant Vagge admits that during the review of Det. Araujo's grievance, Defendant Vagge learned of this allegation, but he is otherwise without knowledge regarding the remaining allegations in paragraph 209 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 209.

210. Defendant Vagge is without knowledge regarding the allegations in paragraph 210 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 210.

211. In answer to paragraph 211 and footnote 2 of Plaintiffs' First Amended Complaint, Defendant Vagge states that Det. Araujo's discipline speaks for itself and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 211 and footnote 2.

212. In answer to paragraph 212 of Plaintiffs' First Amended Complaint, Defendant Vagge states that Det. Araujo's discipline speaks for itself and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 212.

213. Defendant Vagge admits that Sgt. Shaklee omitted his wife's concerns but is otherwise without knowledge regarding the remaining allegations in paragraph 213 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 213.

214. Defendant Vagge is without knowledge regarding the allegations in paragraph 214 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 214.

215. In answer to paragraph 215 of Plaintiffs' First Amended Complaint, Defendant Vagge denies that the reprimand is evidence of disparate treatment. Defendant is otherwise without knowledge regarding the remaining allegations in paragraph 215 and, therefore, denies the same.

216. Defendant Vagge states that Det. Shaklee would have no duty to write such a report, but he is otherwise without knowledge regarding the remaining allegations in

paragraph 216 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 216.

217. Defendant Vagge states that Det. Shaklee would have no duty to write such a report, but he is otherwise without knowledge regarding the remaining allegations in paragraph 217 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 217.

218. Defendant Vagge is without knowledge regarding the allegations in paragraph 218 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 218.

219. Defendant Vagge is without knowledge regarding the allegations in paragraph 219 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 219.

220. In answer to paragraph 220 of Plaintiffs' First Amended Complaint, Defendant Vagge states that FCPD policies and the Collective Bargaining Agreement speak for themselves and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 220.

C. Det. Araujo Brought Complaints of Discrimination Against Sgt. Shaklee, To No Avail

221. In answer to paragraph 221 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that Det. Araujo submitted a grievance on or around July 15, 2014, and that grievance speaks for itself. Defendant Vagge otherwise denies the remaining allegations in paragraph 221.

222. In answer to paragraph 222 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that he denied the grievance in part and that such denial speaks for itself. Defendant Vagge otherwise denies the remaining allegations in paragraph 222.

223. In answer to paragraph 223 of Plaintiffs' First Amended Complaint, Defendant Vagge states that his response to the grievance speaks for itself and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 223.

224. Defendant Vagge admits the allegations in paragraph 224 of Plaintiffs' First Amended Complaint.

225. In answer to paragraph 225 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that the appeal was denied. Defendant Vagge otherwise denies the remaining allegations in paragraph 225.

226. In answer to paragraph 226 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that Chief Hutto spoke to him about the grievance. Defendant Vagge is without knowledge regarding the remaining allegations in paragraph 226 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the remaining allegations in paragraph 226.

227. Defendant Vagge is without knowledge regarding the allegations in paragraph 227 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 227.

228. In answer to paragraph 228 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that Chief Hutto spoke to him. Defendant Vagge otherwise denies the remaining allegations in paragraph 228.

229. Defendant Vagge denies the allegations in paragraph 229 of Plaintiffs' First Amended Complaint.

230. In answer to paragraph 230 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that he referred Det. Araujo to IA and the Human Resources Department, and that he sent a document to the Human Resources Department. Defendant Vagge otherwise denies the remaining allegations in paragraph 230.

231. In answer to paragraph 231 of Plaintiffs' First Amended Complaint, Defendant Vagge states that the IA complaint speaks for itself and, therefore, Defendant Vagge need not admit or deny this allegation. Defendant Vagge is without knowledge regarding the allegations in paragraph 231 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 231.

232. Defendant Vagge is without knowledge regarding the allegations in paragraph 232 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 232.

233. In answer to paragraph 233 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that IA disagreed with most or all of the allegations and states that the IA findings and the policies speak for themselves and denies anything inconsistent with them. Defendant Vagge is without knowledge regarding the remaining allegations in paragraph 233 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the remaining allegations in paragraph 233.

234. In answer to paragraph 234 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that IA sustained the complaint as to one or more issues and states that the IA finding and the policies speak for themselves. Defendant Vagge is without knowledge regarding the remaining allegations in paragraph 234 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the remaining allegations in paragraph 234.

235. Defendant Vagge states that, to his knowledge, the reprimand was not removed, but he is otherwise without knowledge regarding the remaining allegations in paragraph 235 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 235.

236. Defendant Vagge is without knowledge regarding the allegations in paragraph 236 of Plaintiffs' First Amended Complaint. The IA file speaks for itself. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 236.

237. The allegations in paragraph 237 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 237.

238. Defendant Vagge states that the investigation speaks for itself and denies the allegations in paragraph 238 of Plaintiffs' First Amended Complaint that are inconsistent with it.

239. Defendant Vagge is without knowledge regarding the allegations in paragraph 239 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 239.

240. Defendant Vagge is without knowledge regarding the allegations in paragraph 240 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 240.

241. Defendant Vagge is without knowledge regarding the allegations in paragraph 241 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 241.

242. Defendant Vagge is without knowledge regarding the allegations in paragraph 242 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 242.

243. Defendant Vagge is without knowledge regarding the allegations in paragraph 243 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 243.

244. In answer to paragraph 244 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that Det. Araujo filed an EEOC charge. Defendant Vagge is otherwise without knowledge regarding the remaining allegations in paragraph 244 and, therefore, denies the same.

D. After Bringing Complaints of Discrimination, Detective Araujo Suffered Unlawful Retaliation, Resulting in his Constructive Discharge.

245. Defendant Vagge admits there was a memorandum by Lt. Pearson, but he is otherwise without knowledge regarding the remaining allegations in paragraph 245 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 245.

246. In answer to paragraph 246 of Plaintiffs' First Amended Complaint, Defendant Vagge states that the memo speaks for itself and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 246.

247. In answer to paragraph 247 of Plaintiffs' First Amended Complaint, Defendant Vagge states that the memo speaks for itself and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 247.

248. In answer to paragraph 248 of Plaintiffs' First Amended Complaint, Defendant Vagge states that the memo or letter speaks for itself and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 248.

249. In answer to paragraph 249 of Plaintiffs' First Amended Complaint, Defendant Vagge states that the memo or letter speaks for itself and, therefore, Defendant Vagge need not admit or deny this allegation. To the extent it is deemed necessary, Defendant Vagge denies the allegations in paragraph 249.

250. Defendant Vagge is without knowledge regarding the allegations in paragraph 250 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 250.

251. Defendant Vagge is without knowledge regarding the allegations in paragraph 251 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 251.

252. Defendant Vagge is without knowledge regarding the allegations in paragraph 252 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 252.

253. Defendant Vagge denies the allegations in paragraph 253 of Plaintiffs' First Amended Complaint.

254. In answer to paragraph 254 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that Det. Araujo resigned. Defendant Vagge is otherwise without knowledge regarding the remaining allegations in paragraph 254 and, therefore, denies the same.

255. On information and belief, Defendant Vagge admits the allegations in paragraph 255 of Plaintiffs' First Amended Complaint.

V. Fort Collins Has Continually Failed to Take Seriously Complaints of Race Discrimination.

256. The allegations in paragraph 256 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 256.

257. The allegations in paragraph 257 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraph 257.

258. As to the allegations in paragraph 258 of Plaintiffs' First Amended Complaint, Defendant Vagge admits that Lt. Pino and Det. Araujo filed complaints. Defendant Vagge denies the remaining allegations contained in paragraph 258.

259. Defendant Vagge admits that the complaints were investigated. Defendant Vagge is without knowledge regarding the remaining allegations in paragraph 259 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the remaining allegations in paragraph 259.

260. Defendant Vagge is without knowledge regarding the allegations in paragraph 260 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 260.

261. Defendant Vagge is without knowledge regarding the allegations in paragraph 261 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 261.

262. Defendant Vagge is without knowledge regarding the allegations in paragraph 262 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 262.

263. Defendant Vagge is without knowledge regarding the allegations in paragraph 263 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 263.

264. Defendant Vagge is without knowledge regarding the allegations in paragraph 264 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 264.

265. Defendant Vagge is without knowledge regarding the allegations in paragraph 265 of Plaintiffs' First Amended Complaint. To the extent it is deemed necessary to admit or deny the same, Defendant Vagge denies the allegations in paragraph 265.

V. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF Violation of Title VII, 42 U.S.C. § 2000e-2(a) Race and National Origin Discrimination (Plaintiff Araujo Against Defendant Fort Collins)

266. In answer to paragraph 266 of Plaintiffs' First Amended Complaint, Defendant Vagge incorporates his answers to the allegations contained in paragraphs 1 through 265 of the First Amended Complaint as though fully set forth herein.

267-277. The allegations in paragraphs 267-277 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit

or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraphs 267-277.

SECOND CLAIM FOR RELIEF
Violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981
Race Discrimination
(All Plaintiffs Against Defendants Shaklee and Vagge in their Individual Capacities)

278. In answer to paragraph 278 of Plaintiffs' First Amended Complaint, Defendant Vagge incorporates his answers to the allegations contained in paragraphs 1 through 277 of the First Amended Complaint as though fully set forth herein.

279-280. Defendant Vagge admits the allegations in paragraphs 279-281 of Plaintiffs' First Amended Complaint.

281. The allegations in paragraph 281 of Plaintiffs' First Amended Complaint are legal conclusions and therefore Defendant Vagge need not respond.

282-291. Defendant Vagge denies the allegations in paragraphs 282-291 of Plaintiffs' First Amended Complaint.

THIRD CLAIM FOR RELIEF
Violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981
Retaliation
(All Plaintiffs Against Defendants Shaklee and Vagge in their Individual Capacities)

292. In answer to paragraph 292 of Plaintiffs' First Amended Complaint, Defendant Vagge incorporates his answers to the allegations contained in paragraphs 1 through 291 of the First Amended Complaint as though fully set forth herein.

293-303. Defendant Vagge denies the allegations in paragraphs 293-303 of Plaintiffs' First Amended Complaint.

FOURTH CLAIM FOR RELIEF
Violation of 42 U.S.C. § 1981, Brought Through 42 U.S.C. § 1983
Discrimination on the Basis of Race
(All Plaintiffs Against Defendant Fort Collins)

304. In answer to paragraph 304 of Plaintiffs' First Amended Complaint, Defendant Vagge incorporates his answers to the allegations contained in paragraphs 1 through 303 of the First Amended Complaint as though fully set forth herein.

305-321. The allegations in paragraphs 305-321 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraphs 305-321 and specifically denies the allegation in paragraph 305 that he was the final policymaker.

FIFTH CLAIM FOR RELIEF
Violation of 42 U.S.C. § 1981, Brought Through 42 U.S.C. § 1983
Retaliation
(All Plaintiffs Against Defendant Fort Collins)

322. In answer to paragraph 322 of Plaintiffs' First Amended Complaint, Defendant Vagge incorporates his answers to the allegations contained in paragraphs 1 through 321 of the First Amended Complaint as though fully set forth herein.

323-340. The allegations in paragraphs 323-340 of Plaintiffs' First Amended Complaint apply to another defendant, and, therefore, Defendant Vagge need not admit or deny such allegations. To the extent that it is deemed necessary, Defendant Vagge denies the allegations contained in paragraphs 323-340.

VI. PRAYER FOR RELIEF

Defendant Vagge denies Plaintiffs are entitled to any of the relief sought in their Prayer for Relief.

SEPARATE AND AFFIRMATIVE DEFENSES

1. Defendant Vagge denies each and every allegation in Plaintiffs' First Amended Complaint not specifically admitted herein.

2. Defendant Vagge alleges that the proximate cause of some or all of the injuries and/or damages alleged were due to the fault of Plaintiffs or that their fault contributed to the same.

3. Defendant Vagge alleges that some or all of Plaintiffs' alleged injuries and damages, if any, was proximately caused by the acts of third parties, not parties to this action, over whom Defendant Vagge had no control nor right of control.

4. Defendant Vagge is entitled to qualified immunity.

5. Defendant Vagge alleges that Plaintiffs' claims are barred as, at all times relevant to Plaintiffs' First Amended Complaint, he did not violate a clearly established statutory or constitutional right of Plaintiffs and was performing a discretionary function and was otherwise acting in good faith and is, therefore, entitled to official and good faith immunity.

6. Defendant Vagge denies that he had any personal involvement in some of the actions alleged by Plaintiffs.

7. Defendant Vagge alleges that Plaintiffs may have failed to mitigate their damages, if any, as required by law.

8. Defendant Vagge alleges that some or all of the allegedly improper actions did not constitute adverse action as to that Plaintiff.

9. Defendant Vagge alleges that Plaintiffs' claims are barred, as they were not brought within the applicable time limit as required by the statutory limitation of actions provisions.

10. Defendant Vagge alleges, on information and belief, that the claims asserted by Det. Araujo exceed the scope of the administrative charges or proceedings Plaintiff brought before the Equal Opportunity Employment Commission or the Colorado Civil Rights Division.

11. Defendant Vagge alleges, on information and belief, that Plaintiffs' claims of discrimination are barred, in whole or in part, to the extent that they were not timely filed as required under 42 U.S.C. §2000e-5(e) 42 U.S.C. §2000e-5(f)(1), 28 U.S.C.A. § 1658; 42 U.S.C.A. § 1981(a, b), C.R.S. § 24-34-306(2)(b)(I)(B), and C.R.S. § 24-34-306(14).

12. Defendant Vagge alleges Plaintiffs have failed to exhaust any and all remedies pursuant to the applicable administrative regulations, state, and/or federal law.

13. Defendant Vagge alleges that the amount of damages recovered by Plaintiffs, if any, are limited by 42 U.S.C. § 1981a(b) and § 1981a(b)(4), 42 U.S.C. §§ 1981a(a-b) and 2000(e)(g) and 29 U.S.C. § 626(b).

14. Defendant Vagge alleges that he did not have knowledge of some allegedly protected activity by Plaintiffs.

15. Defendant Vagge alleges there is no causal connection between some or all of Plaintiffs' alleged protected activity and their alleged adverse employment actions.

16. Defendant Vagge alleges that at all relevant times, he exercised reasonable care and took prompt and effective remedial action to prevent and correct any discriminatory or retaliatory behavior, and Plaintiffs unreasonably failed to take advantage of any preventive or corrective opportunities provided by Fort Collins or to avoid harm otherwise.

17. At all times, Defendant Vagge's conduct was lawful, justified, privileged and made in good faith or made in a good faith effort to act in compliance with applicable federal and state laws, regulations, and statutes.

18. Any alleged adverse, negative or detrimental tangible employment action, if any, was done for legitimate nondiscriminatory reasons based on bona fide business reasons and/or occupational qualifications.

19. Defendant Vagge alleges that Plaintiffs failed to give Defendants reasonable notice and opportunity to remedy any alleged discriminatory conduct.

20. Defendant Vagge alleges that even if discrimination or retaliation was a motive in Defendants' conduct, which is specifically denied by Defendant Vagge, the challenged decisions still would have been made even in the absence of discrimination or retaliation.

21. Defendant Vagge alleges he relied on the policies and practices of Ft. Collins and FCPD as job related for the positions in question and consistent with business necessity.

22. Plaintiffs' claims are barred in whole or in part under the doctrines of release, waiver, estoppel, assumption of the risk, and/or laches.

23. Plaintiffs' claim for punitive or exemplary damages is barred or limited to the extent it violates the Excessive Fines Clause of the Eighth Amendment to the United States Constitution; the Due Process Clause of the Fourteenth Amendment to the United States Constitution; the Equal Protection Clause of the United States Constitution; the Double Jeopardy Clause of the Fifth Amendment to the United States Constitution; and any applicable statutes.

24. Defendant Vagge is not liable for punitive damages because any alleged improper conduct to justify such damages was not committed, condoned, authorized, or performed by him or under his supervision.

25. Plaintiffs' claims are subject to reduction under the doctrine of setoff.

WHEREFORE, Defendant Vagge requests that Plaintiffs' First Amended Complaint be dismissed and Defendant Vagge awarded those costs and fees incurred in responding to Plaintiffs' allegations.

DEFENDANT VAGGE DEMANDS TRIAL TO A JURY ON ALL CLAIMS.

Respectfully submitted,

Date: September 26, 2016

s/David R. DeMuro
David R. DeMuro
VAUGHAN & DeMURO
720 South Colorado Boulevard
Penthouse, North Tower
Denver, CO 80246
303-837-9200 (phone)
ddemuro@vaughandemuro.com (email)
ATTORNEY FOR DEFENDANT VAGGE

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of September, 2016, I electronically filed the foregoing **ANSWER TO FIRST AMENDED COMPLAINT** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

J. Andrew Nathan
anathan@ndm-law.com

Cathy Havener Greer
cgreer@warllc.com

Marni Nathan Kloster
mkloster@ndm-law.com

Brendan L. Loy
bloy@warllc.com

Nicholas Christaan Poppe
npoppe@ndm-law.com

Laura B. Wolf
lw@rmlawyers.com

Qusair Mohamedbhai
qm@rmlawyers.com

and I hereby certify that the foregoing was placed in the U.S. Mail, postage prepaid, and addressed to the following:

[none]

s/David R. DeMuro
David R. DeMuro
VAUGHAN & DeMURO
720 South Colorado Boulevard
Penthouse, North Tower
Denver, CO 80246
303-837-9200 (phone)
ddemuro@vaughandemuro.com (email)
ATTORNEY FOR DEFENDANT VAGGE