

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:16-cv-00966-RBJ

KENNYBERG ARAUJO, and  
FRANCIS GONZLES,

Plaintiff,

v.

THE CITY OF FORT COLLINS, Colorado, a home rule municipality;  
DONALD VAGGE, former Deputy Chief of Police, in his individual and official capacities, and  
GARY SHAKLEE, Police Sergeant, in his individual and official capacities;

Defendants.

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**DEFENDANT THE CITY OF FORT COLLINS' ANSWER AND JURY DEMAND TO  
PLAINTIFFS' FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL**

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Defendant, The City of Fort Collins ("Fort Collins") by and through its attorney, Cathy Havener Greer and Brendan L. Loy, of the law firm of Wells, Anderson & Race, LLC, for its Answer and Jury Demand to Plaintiffs' First Amended Complaint and Demand for Jury Trial ("First Amended Complaint") states as follows:

**I. INTRODUCTION**

1. Defendant Fort Collins admits that Plaintiffs are bringing an action pursuant to Title VII and Section 1981 as alleged in Paragraph 1 of Plaintiffs' First Amended Complaint, but denies that the City has discriminated against either Plaintiff and denies that the City has retaliated against either Plaintiff and therefore denies the allegations of Paragraph 1.

2. Defendant Fort Collins denies the allegations of Paragraph 2 of Plaintiffs' First Amended Complaint except to admit that Plaintiffs are Latino/Hispanic.
3. Defendant Fort Collins denies the allegations of Paragraph 3 of Plaintiffs' First Amended Complaint.
4. Defendant Fort Collins denies the allegations of Paragraph 4 of Plaintiffs' First Amended Complaint.

## **II. JURISDICTION AND VENUE**

5. Defendant Fort Collins admits that this Court has jurisdiction as alleged in Paragraph 5 of Plaintiffs' First Amended Complaint.
6. Defendant Fort Collins admits that venue is proper but denies the remaining allegations of Paragraph 6 of Plaintiffs' First Amended Complaint and specifically denies that it committed unlawful employment practices.
7. Defendant Fort Collins admits that Plaintiff Araujo filed a Charge of Discrimination as alleged in Paragraph 7 of Plaintiffs' First Amended Complaint, but is without knowledge as to whether all jurisdictional prerequisites were met and therefore denies the allegations of Paragraph 7.
8. Defendant Fort Collins admits that a right to sue letter was issued to Detective Araujo on February 2, 2016. With regard to the remainder of the allegations, Defendant Fort Collins is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 8 of Plaintiffs' First Amended Complaint, and therefore denies the same.

9. Defendant Fort Collins states that Paragraph 9 of Plaintiffs' First Amended Complaint states a legal conclusion rather than a short and plain statement of Plaintiffs' claim and therefore no response is required of this Defendant.

### **III. PARTIES**

10. Defendant Fort Collins admits the allegations of Paragraph 10 of Plaintiffs' First Amended Complaint.
11. Defendant Fort Collins admits the allegations of Paragraph 11 of Plaintiffs' First Amended Complaint.
12. Defendant Fort Collins admits that it is a home rule city and that it is the employer of Plaintiff Gonzales and that Plaintiff Araujo is a former employee of the City, admits that it is an "employer" within the meaning of Title VII and an entity that can be sued pursuant to 42 U.S.C. 1981 as alleged in Paragraph 12 of Plaintiffs' First Amended Complaint, and denies all other allegations not specifically admitted.
13. Defendant Fort Collins admits that Defendant Vagge is a former Deputy Chief of the FCPD and is being sued in his individual capacity as alleged in Paragraph 13 of Plaintiffs' First Amended Complaint, but denies that Defendant Vagge was a final policymaker for Fort Collins.
14. Defendant Fort Collins denies the allegations of Paragraph 14 of Plaintiffs' First Amended Complaint.
15. Defendant Fort Collins admits the allegations of Paragraph 15 of Plaintiffs' First Amended Complaint.

16. Defendant Fort Collins denies the allegations of Paragraph 16 of Plaintiffs' First Amended Complaint.

#### IV. GENERAL ALLEGATIONS

**Defendant Fort Collins denies the allegations contained in all headings in this First Amended Complaint, whether captioned in Roman numerals, alphabetically or with italics.**

17. Defendant Fort Collins denies the allegations of Paragraph 17 of Plaintiffs' First Amended Complaint.

18. Defendant Fort Collins denies the allegations of Paragraph 18 of Plaintiffs' First Amended Complaint.

19. Defendant Fort Collins denies the allegations of Paragraph 19 of Plaintiffs' First Amended Complaint.

20. Defendant Fort Collins denies the allegations of Paragraph 20 of Plaintiffs' First Amended Complaint.

21. Defendant Fort Collins denies the allegations of Paragraph 21 of Plaintiffs' First Amended Complaint.

22. Defendant Fort Collins denies the allegations of Paragraph 22 of Plaintiffs' First Amended Complaint.

23. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 23 of Plaintiffs' First Amended Complaint and therefore denies them.

24. In response to Paragraph 24 of Plaintiffs' First Amended Complaint, Defendant Fort Collins is without knowledge and information sufficient to form a certain belief as to

whether the purported statement was made by unspecified third parties, but denies that it was the policy of Fort Collins at the time not to promote Latino/Hispanic officers. Any other factual allegations in Paragraph 24 are denied.

25. Defendant Fort Collins admits that Officer John Martinez separated from employment with Defendant Fort Collins on June 1, 1979 due to a change in career. Defendant Fort Collins is without knowledge and information sufficient as to the remainder of the allegations of Paragraph 25 of Plaintiffs' First Amended Complaint.

26. In response to Paragraph 26 of Plaintiffs' First Amended Complaint, Defendant Fort Collins states that it believes that no other Latino/Hispanic officer has been promoted to lieutenant since Lt. Pino's promotion in 1999, but is without knowledge and information sufficient to form a certain belief as to whether Lt. Pino is definitely the only such officer in the FCPD's history, including in the years before 1999, and therefore denies the same. Defendant Fort Collins denies that its promotion decisions reflect any form of racial discrimination or animus whatsoever, and also notes that a Hispanic female was promoted in 2015 to the equivalent of lieutenant in the civilian ranks of Fort Collins Police Services.

27. In response to Paragraph 27 of Plaintiffs' First Amended Complaint, Defendant Fort Collins is without knowledge and information sufficient to form a belief as to whether Lt. Pino "tested out as the number one candidate" in 1999. Any other factual allegations in the paragraph, including the phrase "came only after," as well as any suggestion or implication of discrimination, are denied.

28. Defendant Fort Collins denies the allegations of Paragraph 28 of Plaintiffs' First Amended Complaint.

29. Defendant Fort Collins denies the characterization of the allegations of Paragraph 29 of Plaintiffs' First Amended Complaint and states that a newspaper article is hearsay and not a short and plain statement of a claim.

30. Defendant Fort Collins denies the allegations of Paragraph 30 of Plaintiffs' First Amended Complaint.

31. Defendant Fort Collins denies the allegations of Paragraph 31 of Plaintiffs' First Amended Complaint.

32. Defendant Fort Collins denies the allegations of Paragraph 32 of Plaintiffs' First Amended Complaint.

33. Defendant Fort Collins denies the allegations of Paragraph 33 of Plaintiffs' First Amended Complaint.

34. Defendant Fort Collins admits Paragraph 34 of Plaintiffs' First Amended Complaint.

35. In response to Paragraph 35 of Plaintiffs' First Amended Complaint, Defendant Fort Collins is without knowledge and information as to the outdoor temperature at the time Officer Atencio might have been assigned to attend a City Council meeting. Defendant Fort Collins admits that Officer Atencio was assigned to this responsibility on occasion, as were other patrol officers.

36. Defendant Fort Collins is without knowledge and information as to the weather conditions, denies that patrol officers on this assignment have been called to an

emergency response, and admits to the remainder of the allegations of Paragraph 36 of Plaintiffs' First Amended Complaint.

37. Defendant Fort Collins denies that Officer Atencio received a letter of reprimand as alleged in Paragraph 37 of Plaintiffs' First Amended Complaint. With respect to the allegation regarding FCPD policy on leaving a patrol car running, Defendant Fort Collins avers that the policy in question is as stated in Policy 706 of the Fort Collins Police Services Policy Manual, which is a document that speaks for itself; as such, no response is required to any characterization of that policy. Any additional allegations in the paragraph are denied.

38. Defendant Fort Collins denies the allegations of Paragraph 38 of Plaintiffs' First Amended Complaint.

39. Defendant Fort Collins admits Lieutenant Reed left his City vehicle running at the Fort Collins Police Services building and is without sufficient knowledge and information as to the remainder of the allegations in Paragraph 39 of Plaintiffs' First Amended Complaint and therefore denies them.

40. Defendant Fort Collins admits Paragraph 40 of Plaintiffs' First Amended Complaint.

41. Defendant Fort Collins admits Lieutenant Reed became distracted, but is without sufficient knowledge and information as to whether this was his only explanation for having left his vehicle running, as alleged in Paragraph 41 of Plaintiffs' First Amended Complaint.

42. Defendant Fort Collins admits Lieutenant Reed acknowledged violating policy, but denies that Deputy Chief Schiager “refused” to write him up, as alleged in Paragraph 42 of Plaintiffs’ First Amended Complaint.

43. Defendant Fort Collins denies the allegations of Paragraph 43 of Plaintiffs’ First Amended Complaint.

44. Defendant Fort Collins denies the allegations of Paragraph 44 of Plaintiffs’ First Amended Complaint.

45. Defendant Fort Collins denies that Bryce Gonzales applied for a sworn officer position in 2007 as alleged in Paragraph 45 of Plaintiffs’ First Amended Complaint but admits he applied in 2008.

46. Defendant Fort Collins denies the allegations of Paragraph 46 of Plaintiffs’ First Amended Complaint.

47. Defendant Fort Collins denies the allegations of Paragraph 47 of Plaintiffs’ First Amended Complaint therefore denies them.

48. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations of Paragraph 48 of Plaintiffs’ First Amended Complaint and therefore denies them.

49. In response to Paragraph 49 of Plaintiffs’ First Amended Complaint, Defendant Fort Collins admits that if Bryce failed to meet the requirements of the initial hiring phase, he would not be permitted to retest for eighteen months, in accordance with standard procedure.

50. Defendant Fort Collins denies Paragraph 50 of Plaintiffs’ First Amended Complaint.

51. Defendant Fort Collins denies Paragraph 51 of Plaintiffs' First Amended Complaint.

52. Defendant Fort Collins admits Paragraph 52 of Plaintiffs' First Amended Complaint.

53. Defendant Fort Collins admits Paragraph 53 of Plaintiffs' First Amended Complaint.

54. Defendant Fort Collins admits Paragraph 54 of Plaintiffs' First Amended Complaint.

55. Defendant Fort Collins admits the FTO program is a field training and new officer performance evaluation program intended to facilitate an officer's transition to performance of law enforcement duties as alleged in Paragraph 55 of Plaintiffs' First Amended Complaint and denies the remainder of the allegations.

56. Defendant Fort Collins denies the allegations of Paragraph 56 of Plaintiffs' First Amended Complaint.

57. Defendant Fort Collins denies the allegations of Paragraph 57 of Plaintiffs' First Amended Complaint.

58. Defendant Fort Collins admits Paragraph 58 of Plaintiffs' First Amended Complaint.

59. Defendant Fort Collins denies Paragraph 59 of Plaintiffs' First Amended Complaint.

60. Defendant Fort Collins denies Paragraph 60 of Plaintiffs' First Amended Complaint.

61. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to whether an unspecified third party made a statement to Bryce Gonzales such as the one alleged in Paragraph 61 of Plaintiffs' First Amended Complaint, and therefore denies the same.

62. In response to Paragraph 62 of Plaintiffs' First Amended Complaint, Defendant Fort Collins admits that Ms. Savage in December 2012 did not successfully complete her Field Training Officer ("FTO") work plan, but denies that she immediately or

sequentially thereafter “was allowed to reapply” for a police officer position; rather, an opportunity arose for her to be placed in a *different*, non- police officer position as a Community Service Officer (“CSO”), where she performed well. Subsequently, after approximately two years in the CSO position, she expressed interest in late 2014 in a police officer position, at which point she was permitted to re-enter the field training program as a police officer beginning in June 2015, which she completed successfully. Any other factual allegations in the paragraph are denied.

63. Defendant Fort Collins denies the allegations of Paragraph 63 of Plaintiffs’ First Amended Complaint.

64. Defendant Fort Collins denies the allegations of Paragraph 64 of Plaintiffs’ First Amended Complaint.

65. Defendant Fort Collins admits that Lieutenant Pino brought forth a claim that promotional practices were discriminatory in February of 2012, and denies the remainder of the allegations of Paragraph 65 of Plaintiffs’ First Amended Complaint.

66. Defendant Fort Collins denies the allegations of Paragraph 66 of Plaintiffs’ First Amended Complaint and avers that Lieutenant Pino was removed from his post on the Northern Colorado Drug Task Force in January of 2012 before Pino made any allegations of discrimination.

67. Defendant Fort Collins admits Paragraph 67 of Plaintiffs’ First Amended Complaint, and avers that Lt. Pino’s removal was for legitimate, non-discriminatory reasons related to substantial concerns about his performance and/or serious issues with the NCDTF during his tenure.

68. Defendant Fort Collins admits that Dodd, Schiager and Yeager were promoted to a Deputy Chief position after explicitly notifying the police chief of interest in that position (and after completing a rotation with the NCDTF), avers that Pino did not notify the police chief of interest in a Deputy Chief position, and denies all other allegations in Paragraph 68 of Plaintiffs' First Amended Complaint.

69. In response to Paragraph 69 of Plaintiffs' First Amended Complaint, Defendant Fort Collins admits that Plaintiff Araujo in 2014 brought forth a claim against his supervisor, Sergeant Gary Shaklee, alleging in part that a letter of reprimand he received from Shaklee was motivated by discrimination. Defendant Fort Collins denies that Araujo in 2014 expressed concerns about "systemic and persistent race discrimination" outside the specific context of his allegations against Shaklee personally. Defendant Fort Collins denies the remainder of the allegations of Paragraph 69 of Plaintiffs' First Amended Complaint.

70. Paragraph 70 contains a mixture of factual allegations and legal conclusions. Defendant Fort Collins admits that Plaintiff Araujo filed a grievance, initiated an internal investigation at the urging of Chief John Hutto and filed charges with the EEOC and is not required to respond to the legal conclusion in Paragraph 70 of Plaintiffs' First Amended Complaint. To the extent it is required to respond, Fort Collins denies the allegations.

71. Defendant Fort Collins denies the allegations of Paragraph 71 of Plaintiffs' First Amended Complaint.

72. Defendant Fort Collins admits the allegations of Paragraph 72 of Plaintiffs' First Amended Complaint.

73. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations of Paragraph 73 of Plaintiffs' First Amended Complaint regarding statements by unnamed third parties, and therefore denies the same. Defendant Fort Collins denies that Plaintiff Gonzales was "blackballed." Any other allegations in the paragraph are denied.

74. Defendant Fort Collins denies the allegations of Paragraph 74 of Plaintiffs' First Amended Complaint.

75. Defendant Fort Collins denies the allegations of Paragraph 75 of Plaintiffs' First Amended Complaint.

76. Defendant Fort Collins denies the allegations of Paragraph 76 of Plaintiffs' First Amended Complaint.

77. Defendant Fort Collins denies the allegations of Paragraph 77 of Plaintiffs' First Amended Complaint.

78. Defendant Fort Collins denies the allegations of Paragraph 78 of Plaintiffs' First Amended Complaint.

79. Defendant Fort Collins denies the allegations of Paragraph 79 of Plaintiffs' First Amended Complaint.

80. Defendant Fort Collins denies the allegations of Paragraph 80 of Plaintiffs' First Amended Complaint.

81. Defendant Fort Collins denies the allegations of Paragraph 81 of Plaintiffs' First Amended Complaint.

82. Defendant Fort Collins denies the allegations of Paragraph 82 of Plaintiffs' First Amended Complaint.

83. Defendant Fort Collins denies the allegations of Paragraph 83 of Plaintiffs' First Amended Complaint.

84. Defendant Fort Collins denies the allegations of Paragraph 84 of Plaintiffs' First Amended Complaint.

85. Defendant Fort Collins admits Paragraph 85 of Plaintiffs' First Amended Complaint.

86. Defendant Fort Collins admits that Lt. Pino brought a grievance against Deputy Chief Vagge, as alleged in Paragraph 86 of Plaintiffs' First Amended Complaint. The grievance is a written document that speaks for itself, and Defendant Fort Collins is not required to respond to any characterizations thereof. To the extent a response is required, such allegations are denied. Defendant Fort Collins further specifically denies that Lt. Pino or any other employee was subjected to "relentless race discrimination," or to unlawful or discriminatory "hypercritical evaluation."

87. Defendant Fort Collins admits Paragraph 87 of Plaintiffs' First Amended Complaint.

88. Defendant Fort Collins denies Paragraph 88 of Plaintiffs' First Amended Complaint.

89. Defendant Fort Collins denies Paragraph 89 of Plaintiffs' First Amended Complaint.

90. Defendant Fort Collins denies Paragraph 90 of Plaintiffs' First Amended Complaint and avers that Lieutenant Pino was removed from his post as lieutenant of the Northern Colorado Drug Task Force before he filed a grievance.

91. In response to Paragraph 91 of Plaintiffs' First Amended Complaint, Defendant Fort Collins admits that no disciplinary action was taken against Deputy Chief Vagge because no such action was warranted.

92. Defendant Fort Collins denies Paragraph 92 of Plaintiffs' First Amended Complaint.

93. Defendant Fort Collins denies Paragraph 93 of Plaintiffs' First Amended Complaint.

94. Defendant Fort Collins denies Paragraph 94 of Plaintiffs' First Amended Complaint (subparts a- e).

95. In response to Paragraph 95 of Plaintiffs' First Amended Complaint, Defendant Fort Collins denies that Shaklee "openly targeted and discriminated against" Ms. O'Brien, but is without knowledge and information sufficient to form a belief as to the details of the interactions between Shaklee and those individuals, such as Ms. O'Brien, who were not Fort Collins employees, but who worked alongside Fort Collins employees on the multi-agency NCDTF. Any other factual allegations in Paragraph 95 of Plaintiffs' First Amended Complaint are denied.

96. Defendant Fort Collins admits Paragraph 96 of Plaintiffs' First Amended Complaint.

97. Defendant Fort Collins admits Defendant Shaklee was promoted to sergeant, but is without sufficient information and knowledge to form a belief as to the truth of the remaining allegations in Paragraph 97 of Plaintiffs' First Amended Complaint, and therefore denies them.

98. Defendant Fort Collins denies Paragraph 98 of Plaintiffs' First Amended Complaint and avers that Defendant Shaklee played a key role in the selection of Plaintiff Araujo for the Northern Colorado Drug Task Force.

99. Defendant Fort Collins denies Paragraph 99 of Plaintiffs' First Amended Complaint.
100. Defendant Fort Collins denies Paragraph 100 of Plaintiffs' First Amended Complaint.
101. Defendant Fort Collins denies Paragraph 101 of Plaintiffs' First Amended Complaint.
102. Defendant Fort Collins denies Paragraph 102 of Plaintiffs' First Amended Complaint.
103. Defendant Fort Collins denies Paragraph 103 of Plaintiffs' First Amended Complaint.
104. Defendant Fort Collins admits that Kim Miller conducted at least one survey of Fort Collins Police Services ("FCPS") employees sometime within the last decade and admits that another person or persons have conducted other surveys at the request of the Fraternal Order of Police..
105. Defendant Fort Collins admits Dr. Miller conducted a survey and the results of the anonymous survey included some comments critical of some department leaders, but is without knowledge and information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 105 of Plaintiffs' First Amended Complaint and therefore denies them.
106. Defendant Fort Collins denies Paragraph 106 of Plaintiffs' First Amended Complaint.
107. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations of Paragraph 107 of Plaintiffs' First Amended Complaint and therefore denies them.
108. Defendant Fort Collins denies Paragraph 108 of Plaintiffs' First Amended Complaint.
109. Defendant Fort Collins denies Paragraph 109 of Plaintiffs' First Amended Complaint.
110. Defendant Fort Collins denies Paragraph 110 of Plaintiffs' First Amended Complaint.
111. Defendant Fort Collins denies Paragraph 111 of Plaintiffs' First Amended Complaint.

112. Defendant Fort Collins denies Paragraph 112 of Plaintiffs' First Amended Complaint.

113. Defendant Fort Collins admits Paragraph 113 of Plaintiffs' First Amended Complaint.

114. In response to Paragraph 114 of Plaintiffs' First Amended Complaint, Defendant Fort Collins states that the contents of Plaintiff Gonzales's personnel file, including performance evaluations, commendations, reprimands and other forms of performance correction, speak for themselves, and Defendant Fort Collins is not required to respond to a characterization of the contents of the file (or selected portions thereof).

115. Paragraph 115 of the Complaint refers to a written document that speaks for itself. As such, Defendant Fort Collins is not required to respond to any characterization of the contents of the document at issue. Defendant Fort Collins specifically denies that the document at issue is necessarily representative of all views of Mr. Gonzales' performance at all times.

116. Paragraph 116 of the Complaint refers to a written document that speaks for itself. As such, Defendant Fort Collins is not required to respond to any characterization of the contents of the document at issue. Defendant Fort Collins specifically denies that the document at issue is necessarily representative of all views of Mr. Gonzales' performance at all times.

117. Paragraph 117 of the Complaint refers to a written document that speaks for itself. As such, Defendant Fort Collins is not required to respond to any characterization of the contents of the document at issue. Defendant Fort Collins specifically denies that the document at issue is necessarily representative of all views of Mr. Gonzales's performance at all times.

118. Paragraph 118 of the Complaint refers to a written document that speaks for itself. As such, Defendant Fort Collins is not required to respond to any characterization of the contents of the document at issue. Defendant Fort Collins specifically denies that the document at issue is necessarily representative of all views of Mr. Gonzales' performance at all times.

119. Paragraph 119 of the Complaint refers to written documents that speak for themselves. As such, Defendant Fort Collins is not required to respond to any characterization of the contents of the document at issue. To the extent a response is required, the factual allegations are denied.

120. Defendant Fort Collins denies Paragraph 120 of Plaintiffs' First Amended Complaint.

121. Defendant Fort Collins admits Paragraph 121 of Plaintiffs' First Amended Complaint.

122. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 122 of Plaintiffs' First Amended Complaint and therefore denies them.

123. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 123 of Plaintiffs' First Amended Complaint and therefore denies them.

124. Defendant Fort Collins denies Paragraph 124 of Plaintiffs' First Amended Complaint.

125. Defendant Fort Collins admits Paragraph 125 of Plaintiffs' First Amended Complaint.

126. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 126 of Plaintiffs' First Amended Complaint and therefore denies them.

127. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 127 of Plaintiffs' First Amended Complaint and therefore denies them.

128. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 128 of Plaintiffs' First Amended Complaint and therefore denies them.

129. Defendant Fort Collins admits Paragraph 129 of Plaintiffs' First Amended Complaint.

130. Defendant Fort Collins admits Paragraph 130 of Plaintiffs' First Amended Complaint.

131. Paragraph 131 of Plaintiffs' First Amended Complaint describes a written document whose contents speak for themselves; as such, no response is required. Any other allegations in the paragraph are denied.

132. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 132 of Plaintiffs' First Amended Complaint and therefore denies them.

133. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 133 of Plaintiffs' First Amended Complaint and therefore denies them.

134. Defendant Fort Collins denies Paragraph 134 of Plaintiffs' First Amended Complaint.

135. Defendant Fort Collins denies Paragraph 135 of Plaintiffs' First Amended Complaint.

136. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 136 of Plaintiffs' First Amended Complaint and therefore denies them.

137. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 137 of Plaintiffs' First Amended Complaint and therefore denies them.

138. Defendant Fort Collins avers that there is no record of disciplinary action taken against Plaintiff Gonzales related to the allegations in Paragraph 138 of Plaintiffs' First Amended Complaint and therefore denies Paragraph 138.

139. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 139 of Plaintiffs' First Amended Complaint and therefore denies them.

140. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 140 of Plaintiffs' First Amended Complaint and therefore denies them.

141. Defendant Fort Collins denies Paragraph 141 of Plaintiffs' First Amended Complaint.

142. Defendant Fort Collins admits Paragraph 142 of Plaintiffs' First Amended Complaint.

143. In response to Paragraph 143 of Plaintiffs' First Amended Complaint, Defendant Fort Collins admits that Sgt. Gonzales received a commendation from Captain Szakmeister for his service in the referenced role. The commendation is a written document that speaks for itself, and Defendant Fort Collins is not required to respond to any characterizations of the document's contents. To the extent a response is required, the allegations are denied.

144. Defendant Fort Collins admits Paragraph 144 of Plaintiffs' First Amended Complaint.

145. Defendant Fort Collins denies Paragraph 145 of Plaintiffs' First Amended Complaint.

146. In response to Paragraph 146 of Plaintiffs' First Amended Complaint, Defendant Fort Collins denies that Sgt. Reed was promoted during the referenced time period; admits that Sgt. Gonzales was not promoted, but denies that he was "held back"; and avers that Plaintiff Gonzales failed tests and assessments after two portions of the process and failed to move forward to interview for the promotion.

147. Defendant Fort Collins denies Paragraph 147 of Plaintiffs' First Amended Complaint.

148. Defendant Fort Collins denies Paragraph 148 of Plaintiffs' First Amended Complaint.

149. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations regarding statements by an unnamed third party or parties in Paragraph 149 of Plaintiffs' First Amended Complaint, and therefore denies the same. Defendant Fort Collins denies that Sgt. Gonzales was "blackballed." Any other allegations in the paragraph are denied.

150. Defendant Fort Collins denies Paragraph 150 of Plaintiffs' First Amended Complaint.

151. Defendant Fort Collins denies Paragraph 151 of Plaintiffs' First Amended Complaint.

152. Defendant Fort Collins denies Paragraph 152 of Plaintiffs' First Amended Complaint.

153. Defendant Fort Collins admits Paragraph 153 of Plaintiffs' First Amended Complaint.

154. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 154 of Plaintiffs' First Amended Complaint and therefore denies them.

155. Defendant Fort Collins denies the allegations in Paragraph 155 of Plaintiffs' First Amended Complaint.

156. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 156 of Plaintiffs' First Amended Complaint and therefore denies them.

157. Defendant Fort Collins admits that Sgt. Gonzales received an award or commendation at the FCPS awards ceremony in 2014, but is without knowledge and information sufficient to form a certain belief as the details of the award alleged in Paragraph 157 of Plaintiffs' First Amended Complaint.

158. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 158 of Plaintiffs' First Amended Complaint and therefore denies them.

159. Defendant Fort Collins admits Plaintiff Gonzales was interviewed in administrative investigations conducted by the Defendant's Human Resources department in 2012 and 2014 and denies the remainder of the allegations in Paragraph 159 of Plaintiffs' First Amended Complaint.

160. Paragraph 160 of Plaintiffs' First Amended Complaint contains a legal conclusion that does not require a response.

161. Defendant Fort Collins denies Paragraph 161 of Plaintiffs' First Amended Complaint.

162. Defendant Fort Collins admits Plaintiff Gonzales failed the assessment center panel in August of 2010, which was before he participated in administrative investigation interviews in 2012 and 2014, and denies the remainder of the allegations in Paragraph 162 of Plaintiffs' First Amended Complaint.

163. Defendant Fort Collins denies Paragraph 163 of Plaintiffs' First Amended Complaint.

164. Defendant Fort Collins denies Paragraph 164 of Plaintiffs' First Amended Complaint.

165. Defendant Fort Collins admits that Plaintiff Gonzales expressed interest in the SRO Sergeant position verbally and with his application to the person who made the selection. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 165 of Plaintiffs' First Amended Complaint and therefore denies them.

166. Defendant Fort Collins admits that a number of recommendation letters (which are written documents that speak for themselves) were written on behalf of Plaintiff Gonzales in support of his placement in the SRO Sergeant position, but avers that recommendation letters were not part of the criteria used in evaluating the candidates, and states that it is without knowledge and information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 166 of Plaintiffs' First Amended Complaint.

167. Defendant Fort Collins admits that Sergeant Laura Lunsford was selected for the School Resource Officer Sergeant position and denies the remainder of the allegations in Paragraph 167 of Plaintiffs' First Amended Complaint.

168. Defendant Fort Collins denies Paragraph 168 of Plaintiffs' First Amended Complaint.

169. Defendant Fort Collins denies Paragraph 169 of Plaintiffs' First Amended Complaint.

170. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 170 of Plaintiffs' First Amended Complaint.

171. Defendant Fort Collins admits Paragraph 171 of Plaintiffs' First Amended Complaint.

172. Defendant Fort Collins admits Paragraph 172 of Plaintiffs' First Amended Complaint.

173. Defendant Fort Collins admits Paragraph 173 of Plaintiffs' First Amended Complaint.

174. Paragraph 174 of Plaintiffs' First Amended Complaint does not allege facts, but summarizes a written document that speaks for itself. As such, no response is required.

175. Defendant Fort Collins admits Paragraph 175 of Plaintiffs' First Amended Complaint.

176. Defendant Fort Collins denies Paragraph 176 of Plaintiffs' First Amended Complaint.

177. Defendant Fort Collins denies Paragraph 177 of Plaintiffs' First Amended Complaint.

178. In response to Paragraph 178 of Plaintiffs' First Amended Complaint, Defendant Fort Collins admits that Mr. McGregor received a similar reprimand for a similar issue, but denies that he received "the same reprimand," and denies any suggestion or implication of discrimination or unlawful disparate treatment. All other allegations in the paragraph are denied.

179. Defendant Fort Collins denies Paragraph 179 of Plaintiffs' First Amended Complaint.

180. Defendant Fort Collins denies Paragraph 180 of Plaintiffs' First Amended Complaint.

181. Defendant Fort Collins denies Paragraph 181 of Plaintiffs' First Amended Complaint.

182. Defendant Fort Collins denies Paragraph 182 of Plaintiffs' First Amended Complaint.

183. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 183 of Plaintiffs' First Amended Complaint.

184. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 184 of Plaintiffs' First Amended Complaint.

185. Defendant Fort Collins is without knowledge or information sufficient to form a belief as to Defendant Shaklee's intent or state of mind upon hearing the referenced voicemail, and therefore denies the allegations in Paragraph 185 of Plaintiffs' First Amended Complaint.

186. Defendant Fort Collins denies Paragraph 186 of Plaintiffs' First Amended Complaint.

187. Defendant Fort Collins admits Paragraph 187 of Plaintiffs' First Amended Complaint and avers that Plaintiff Araujo was selected as a quartermaster to the SWAT team.

188. Defendant Fort Collins denies Paragraph 188 of Plaintiffs' First Amended Complaint.

189. Defendant Fort Collins denies Paragraph 189 of Plaintiffs' First Amended Complaint.

190. Defendant Fort Collins admits Paragraph 190 of Plaintiffs' First Amended Complaint.

191. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 191 of Plaintiffs' First Amended Complaint regarding purported statements by an unidentified third party, and therefore denies them. Defendant Fort Collins denies that the events referenced with respect to the SWAT selection took place in the manner alleged. Any other factual allegations in the paragraph are denied.

192. Defendant Fort Collins denies Paragraph 192 of Plaintiffs' First Amended Complaint.

193. Defendant Fort Collins admits Paragraph 193 of Plaintiffs' First Amended Complaint and notes that Defendant Shaklee played a key role in the selection of Plaintiff Araujo for the NCDTF.

194. Defendant Fort Collins denies Paragraph 194 of Plaintiffs' First Amended Complaint.

195. Defendant Fort Collins denies Paragraph 195 of Plaintiffs' First Amended Complaint.

196. Defendant Fort Collins denies Paragraph 196 of Plaintiffs' First Amended Complaint.

197. Defendant Fort Collins denies Paragraph 197 of Plaintiffs' First Amended Complaint.

198. Defendant Fort Collins admits Paragraph 198 of Plaintiffs' First Amended Complaint and notes that the police reports Plaintiff Araujo was required to complete and file were approximately two months past due.

199. Defendant Fort Collins denies Paragraph 199 of Plaintiffs' First Amended Complaint.

200. Defendant Fort Collins denies Paragraph 200 of Plaintiffs' First Amended Complaint.

201. Defendant Fort Collins admits Paragraph 201 of Plaintiffs' First Amended Complaint.

202. In response to Paragraph 202 of Plaintiffs' First Amended Complaint, Defendant Fort Collins admits, based upon the information obtained in its investigation of the referenced matter, that it appears to factually accurate to state that, in Sgt. Shaklee's referenced conversation with Plaintiff Araujo, Sgt. Shaklee referred to a case in which Detective Jaclyn Shaklee asked Plaintiff Araujo to assist her by making and conducting a phone call with a Spanish-speaking witness.

203. Defendant Fort Collins denies the accuracy of the vague phrase "on behalf of one of her cases," but otherwise admits, based upon the information obtained in its investigation of the referenced matter, that the allegations in Paragraph 203 of Plaintiffs' First Amended Complaint appear to be factually accurate.

204. Defendant Fort Collins denies the accuracy of the vague phrase "under the same circumstances," but otherwise admits, based upon the information obtained in its investigation of the referenced matter, that the allegations in Paragraph 204 of Plaintiffs' First Amended Complaint appear to be factually accurate.

205. Defendant Fort Collins admits, based upon the information obtained in its investigation of the referenced matter, that the allegations in Paragraph 205 of Plaintiffs' First Amended Complaint appear to be factually accurate as a general summary of statements made by Plaintiff Araujo and by Sgt. Shaklee in the referenced conversation; however, Defendant Fort Collins lacks knowledge or information sufficient to form a belief as to

the truth of allegations about the details of that conversation, and therefore denies the same, and also specifically denies any implication that Plaintiff Araujo's referenced "explanation" was itself correct or an accurate summary of FCPD policy. Any other factual allegations in the paragraph are denied.

206. In response to Paragraph 206 of Plaintiffs' First Amended Complaint, Defendant Fort Collins admits that there was a case in which Detective Siobhan Jungmeyer asked Plaintiff Araujo for assistance related to translation, and admits, based upon the information obtained in its investigation of the referenced matter, that Sgt. Shaklee and Plaintiff Araujo discussed that case. Defendant Fort Collins is without knowledge or information sufficient to form a belief as to the details of the referenced conversation between Shaklee and Araujo, and therefore denies the same. Any other factual allegations in the paragraph are denied.

207. In response to Paragraph 207 of Plaintiffs' First Amended Complaint, Defendant Fort Collins admits, based upon the information obtained in its investigation of the referenced matter, that Sgt. Shaklee sent a text message (which speaks for itself) regarding the referenced topic, but denies that Sgt. Shaklee "knew" of that text message at the time of his conversation with Plaintiff Araujo; rather, it was revealed in the investigation that Sgt. Shaklee had forgotten about the text message at that time, and at the time he wrote the reprimand of Plaintiff Araujo.

208. Defendant Fort Collins admits Paragraph 208 of Plaintiffs' First Amended Complaint.

209. In response to Paragraph 209 of Plaintiffs' First Amended Complaint, Defendant Fort Collins admits that Sgt. Shaklee instructed Plaintiff Araujo to write several police reports,

but denies any implication that this instruction was improper or inappropriate based upon the “reason” that Araujo allegedly “explained.” Any other factual allegations in the paragraph are denied.

210. In response to Paragraph 210 of Plaintiffs’ First Amended Complaint, Defendant Fort Collins denies that Plaintiff Araujo “immediately” completed the referenced reports, but admits that he did so at some point subsequent to his conversation with Sgt. Shaklee. Any other factual allegations in the paragraph are denied.

211. In response to Paragraph 211 of Plaintiffs’ First Amended Complaint, Defendant Fort Collins admits that Plaintiff Araujo received a written reprimand, dated May 28, 2014, from Sgt. Shaklee, which Plaintiff Araujo signed and dated July 1, 2014, but is without knowledge or information sufficient to form a belief as to the exact date when Det. Araujo received the reprimand. The reprimand is a written document that speaks for itself; thus, no response is required to any characterization of its contents. To the extent a response is required, such allegations are denied. Any other allegations in the paragraph are denied.

212. The reprimand referenced in Paragraph 212 of Plaintiffs’ First Amended Complaint is a written document that speaks for itself; thus, no response is required to any characterization of its contents. To the extent a response is required, such allegations are denied. Any other allegations in the paragraph are denied.

213. The reprimand referenced in Paragraph 213 of Plaintiffs’ First Amended Complaint is a written document that speaks for itself; thus, no response is required to any

characterization of its contents. To the extent a response is required, such allegations are denied. Any other allegations in the paragraph are denied.

214. Defendant Fort Collins denies Paragraph 214 of Plaintiffs' First Amended Complaint.

215. Defendant Fort Collins denies Paragraph 215 of Plaintiffs' First Amended Complaint.

216. Defendant Fort Collins admits the factual allegations in Paragraph 216 of Plaintiffs' First Amended Complaint, but denies that Det. Shaklee was required by policy to submit a police report regarding Det. Araujo's phone call.

217. Defendant Fort Collins denies that the referenced facts constitute a "failure" on the part of Det. Shaklee, and denies any implication of discrimination or disparate treatment, but otherwise admits the factual allegations in Paragraph 217 of Plaintiffs' First Amended Complaint, and notes that there is no basis for disciplinary action against Detective Jaclyn Shaklee.

218. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 218 of Plaintiffs' First Amended Complaint with respect to the details of conversations between Det. Araujo and certain third parties, and therefore denies them.

219. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 219 of Plaintiffs' First Amended Complaint with respect to the details of conversations between Det. Araujo and certain third parties, and therefore denies them.

220. In response to Paragraph 220 of Plaintiffs' First Amended Complaint, Defendant Fort Collins denies Plaintiff's characterization of Sgt. Shaklee's actions; states that it is

without knowledge and information sufficient to form a belief as to Plaintiff Araujo's state of mind or "awareness" and therefore denies the same; and avers that FCPD policies and the Collective Bargaining Agreement are written documents that speak for themselves, and thus no response is required to allegations that characterize these documents. To the extent a response is required, the allegations are denied. Any other allegations in the paragraph as denied.

221. Defendant Fort Collins admits Paragraph 221 of Plaintiffs' First Amended Complaint.

222. Defendant Fort Collins denies Paragraph 222 of Plaintiffs' First Amended Complaint.

223. Paragraph 223 of Plaintiffs' First Amended Complaint describes the contents of a written document that speaks for itself; as such, no response is required to characterizations of the document.

224. Defendant Fort Collins admits Paragraph 224 of Plaintiffs' First Amended Complaint.

225. Defendant Fort Collins denies Paragraph 225 of Plaintiffs' First Amended Complaint.

226. Paragraph 226 of Plaintiffs' First Amended Complaint describes the contents of a written document that speaks for itself; as such, no response is required to characterizations of the document.

227. Defendant Fort Collins denies Paragraph 227 of Plaintiffs' First Amended Complaint.

228. Defendant Fort Collins denies Paragraph 228 of Plaintiffs' First Amended Complaint.

229. Defendant Fort Collins denies Paragraph 229 of Plaintiffs' First Amended Complaint.

230. Defendant Fort Collins denies that Plaintiff Araujo's complaints were not taken seriously as alleged in Paragraph 230 of Plaintiffs' First Amended Complaint. In fact, it was Chief

Hutto who urged Plaintiff Araujo to file a request for a formal internal affairs investigation into the merits of his complaints.

231. Paragraph 231 of Plaintiffs' First Amended Complaint describes the contents of a written document that speaks for itself; as such, no response is required to characterizations of the document.

232. Defendant Fort Collins admits Paragraph 232 of Plaintiffs' First Amended Complaint, but denies any allegation or implication that IA handled the matter inappropriately or in reference to the incorrect policies.

233. Defendant Fort Collins denies Paragraph 233 of Plaintiffs' First Amended Complaint.

234. Defendant Fort Collins admits Paragraph 234 of Plaintiffs' First Amended Complaint.

235. Defendant Fort Collins admits Paragraph 235 of Plaintiffs' First Amended Complaint.

236. Defendant Fort Collins denies Paragraph 236 of Plaintiffs' First Amended Complaint.

237. Defendant Fort Collins denies Paragraph 237 of Plaintiffs' First Amended Complaint.

238. Defendant Fort Collins admits Paragraph 238 of Plaintiffs' First Amended Complaint and further avers that the HR investigation findings were that Defendant Shaklee did not discriminate against Plaintiff Araujo on the basis of Araujo's membership in any protected class.

239. Defendant Fort Collins denies Paragraph 239 of Plaintiffs' First Amended Complaint.

240. Defendant Fort Collins denies Paragraph 240 of Plaintiffs' First Amended Complaint.

241. Defendant Fort Collins denies Paragraph 241 of Plaintiffs' First Amended Complaint.

242. Defendant Fort Collins admits Paragraph 242 of Plaintiffs' First Amended Complaint.

243. Defendant Fort Collins denies Paragraph 243 of Plaintiffs' First Amended Complaint.

244. Defendant Fort Collins admits Paragraph 244 of Plaintiffs' First Amended Complaint.

245. Defendant Fort Collins admits Paragraph 245 of Plaintiffs' First Amended Complaint.

246. Paragraph 246 of Plaintiffs' First Amended Complaint describes the contents of a written document that speaks for itself; as such, no response is required to characterizations of the document.

247. Defendant Fort Collins admits Paragraph 247 of Plaintiffs' First Amended Complaint.

248. Paragraph 248 of Plaintiffs' First Amended Complaint describes the contents of a written document that speaks for itself; as such, no response is required to characterizations of the document.

249. Paragraph 249 of Plaintiffs' First Amended Complaint describes the contents of a written document that speaks for itself; as such, no response is required to characterizations of the document.

250. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 250 of Plaintiffs' First Amended Complaint and therefore denies them. Defendant Fort Collins specifically denies any discrimination or unequal treatment in the manner in which officers are or are not disciplined.

251. Defendant Fort Collins is without information and knowledge adequate to form a certain belief as to whether Lt. Pearson failed to timely submit a report in one such case as alleged in Paragraph 251 of Plaintiffs' First Amended Complaint, but admits it is possible that this may have occurred; however, Defendant Fort Collins denies the implied premise of this allegation, *i.e.*, that Det. Araujo was disciplined merely for failing to timely submit a single report, and therefore Lt. Pearson should also have been disciplined if he failed to

timely submit a single report. Det. Araujo had a pattern of behavior that included being substantially late in completing multiple reports over a period of time, and it was because of that pattern that he was disciplined. Lt. Pearson did not have a similar pattern. Moreover, it is often the case that lieutenants who are not directly involved in the investigation of a case, but rather are playing a supervisory role, are not expected to complete reports. Any other factual allegations in the paragraph are denied.

252. In response to Paragraph 252 of Plaintiffs' First Amended Complaint, Defendant Fort Collins admits that Lt. Pearson was not disciplined for failing to timely submit a single report, and further avers that Det. Araujo also was not disciplined for failing to timely submit a single report.

253. Defendant Fort Collins denies Paragraph 253 of Plaintiffs' First Amended Complaint.

254. Defendant Fort Collins denies Paragraph 254 of Plaintiffs' First Amended Complaint.

255. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 255 of Plaintiffs' First Amended Complaint.

256. Defendant Fort Collins denies Paragraph 256 of Plaintiffs' First Amended Complaint.

257. Defendant Fort Collins denies Paragraph 257 of Plaintiffs' First Amended Complaint.

258. Defendant Fort Collins admits Paragraph 258 of Plaintiffs' First Amended Complaint.

259. In response to Paragraph 259 of Plaintiffs' First Amended Complaint, Defendant Fort Collins is without knowledge and information sufficient to form a belief as to Sgt. Gonzales's subjective impressions, but denies that the accusations were not taken seriously. Any other allegations in the paragraph are denied.

260. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 260 of Plaintiffs' First Amended Complaint and therefore denies them.

261. Defendant Fort Collins admits Paragraph 261 of Plaintiffs' First Amended Complaint.

262. Defendant Fort Collins denies Paragraph 262 of Plaintiffs' First Amended Complaint

263. Defendant Fort Collins denies Paragraph 263 of Plaintiffs' First Amended Complaint.

264. Defendant Fort Collins admits Paragraph 264 of Plaintiffs' First Amended Complaint.

265. Defendant Fort Collins admits Plaintiff Gonzales is not being considered for the position described in Paragraph 265 of Plaintiffs' First Amended Complaint and avers that Sergeant Gonzales has not applied for a lieutenant promotion since 2010.

## **V. CLAIMS FOR RELIEF**

### **FIRST CLAIM FOR RELIEF**

**Violation of Title VII, 42 U.S.C. § 2000e-e(a)**

**Race and National Origin Discrimination**

**(Plaintiff Araujo Against Defendant Fort Collins)**

266. Defendant Fort Collins reincorporates and restates its responses to Paragraphs 1 through 265 as if fully set forth herein.

267. Defendant Fort Collins is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 267 of Plaintiffs' First Amended Complaint.

268. Paragraph 268 of Plaintiffs' First Amended Complaint contains a legal conclusion which does not require a response from Defendant Fort Collins.

269. Defendant Fort Collins denies Paragraph 269 of Plaintiffs' First Amended Complaint.

270. Defendant Fort Collins denies Paragraph 270 of Plaintiffs' First Amended Complaint.

271. Defendant Fort Collins denies Paragraph 271 of Plaintiffs' First Amended Complaint.

272. Defendant Fort Collins denies Paragraph 272 of Plaintiffs' First Amended Complaint.

273. Defendant Fort Collins denies Paragraph 273 of Plaintiffs' First Amended Complaint.

274. Defendant Fort Collins denies Paragraph 274 of Plaintiffs' First Amended Complaint.

275. Defendant Fort Collins denies Paragraph 275 of Plaintiffs' First Amended Complaint.

276. Defendant Fort Collins denies Paragraph 276 of Plaintiffs' First Amended Complaint.

277. Defendant Fort Collins denies Paragraph 277 of Plaintiffs' First Amended Complaint.

**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. Defendant Fort Collins reincorporates and restates its responses to Paragraphs 1 through 277 as if fully set forth herein.

279. The allegations in Paragraph 279 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

280. The allegations in Paragraph 280 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

281. The allegations in Paragraph 281 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

282. The allegations in Paragraph 282 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

283. The allegations in Paragraph 283 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

284. The allegations in Paragraph 284 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

285. The allegations in Paragraph 285 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

286. The allegations in Paragraph 286 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

287. The allegations in Paragraph 287 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

288. The allegations in Paragraph 288 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

289. The allegations in Paragraph 289 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

290. The allegations in Paragraph 290 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

291. The allegations in Paragraph 291 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

**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. Defendant Fort Collins reincorporates and restates its responses to Paragraphs 1 through 291 as if fully set forth herein.

293. The allegations in Paragraph 293 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

294. The allegations in Paragraph 294 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

295. The allegations in Paragraph 295 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.
296. The allegations in Paragraph 296 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.
297. The allegations in Paragraph 297 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.
298. The allegations in Paragraph 298 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.
299. The allegations in Paragraph 299 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.
300. The allegations in Paragraph 300 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.
301. The allegations in Paragraph 301 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.
302. The allegations in Paragraph 302 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.
303. The allegations in Paragraph 303 are not directed toward this Defendant and, therefore, no response is required. To the extent a response is required, the allegations are denied.

**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. Defendant Fort Collins reincorporates and restates its responses to Paragraphs 1 through 303 as if fully set forth herein.

305. Defendant Fort Collins denies Paragraph 305 of Plaintiffs' First Amended Complaint.

306. Defendant Fort Collins admits Paragraph 306 of Plaintiffs' First Amended Complaint.

307. Paragraph 307 of Plaintiffs' First Amended Complaint states a legal conclusion, rather than making factual allegations; as such, no response is required.

308. Defendant Fort Collins denies Paragraph 308 of Plaintiffs' First Amended Complaint.

309. Defendant Fort Collins denies Paragraph 309 of Plaintiffs' First Amended Complaint.

310. Paragraph 310 of Plaintiffs' First Amended Complaint states a legal conclusion, rather than making factual allegations; as such, no response is required.

311. Paragraph 311 of Plaintiffs' First Amended Complaint states a legal conclusion, rather than making factual allegations; as such, no response is required.

312. Defendant Fort Collins denies Paragraph 312 of Plaintiffs' First Amended Complaint.

313. Defendant Fort Collins denies Paragraph 313 of Plaintiffs' First Amended Complaint.

314. Defendant Fort Collins denies Paragraph 314 of Plaintiffs' First Amended Complaint.

315. Defendant Fort Collins denies Paragraph 315 of Plaintiffs' First Amended Complaint.

316. Defendant Fort Collins denies Paragraph 316 of Plaintiffs' First Amended Complaint.

317. Defendant Fort Collins denies Paragraph 317 of Plaintiffs' First Amended Complaint.

318. Defendant Fort Collins denies Paragraph 318 of Plaintiffs' First Amended Complaint.

319. Defendant Fort Collins denies Paragraph 319 of Plaintiffs' First Amended Complaint.

320. Defendant Fort Collins denies Paragraph 320 of Plaintiffs' First Amended Complaint.

321. Defendant Fort Collins denies Paragraph 321 of Plaintiffs' First Amended Complaint.

**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. Defendant Fort Collins reincorporates and restates its responses to Paragraphs 1 through 321 as if fully set forth herein.
323. Defendant Fort Collins denies Paragraph 323 of Plaintiffs' First Amended Complaint.
324. Defendant Fort Collins admits Paragraph 324 of Plaintiffs' First Amended Complaint.
325. Paragraph 325 of Plaintiffs' First Amended Complaint states a legal conclusion, rather than making factual allegations; as such, no response is required.
326. Defendant Fort Collins denies Paragraph 326 of Plaintiffs' First Amended Complaint.
327. Defendant Fort Collins denies Paragraph 327 of Plaintiffs' First Amended Complaint.
328. Defendant Fort Collins denies Paragraph 328 of Plaintiffs' First Amended Complaint.
329. Paragraph 329 of Plaintiffs' First Amended Complaint states a legal conclusion, rather than making factual allegations; as such, no response is required.
330. Paragraph 330 of Plaintiffs' First Amended Complaint states a legal conclusion, rather than making factual allegations; as such, no response is required.
331. Defendant Fort Collins denies Paragraph 331 of Plaintiffs' First Amended Complaint.
332. Defendant Fort Collins denies Paragraph 332 of Plaintiffs' First Amended Complaint.
333. Defendant Fort Collins denies Paragraph 333 of Plaintiffs' First Amended Complaint.
334. Defendant Fort Collins denies Paragraph 334 of Plaintiffs' First Amended Complaint.
335. Defendant Fort Collins denies Paragraph 335 of Plaintiffs' First Amended Complaint.
336. Defendant Fort Collins denies Paragraph 336 of Plaintiffs' First Amended Complaint.
337. Defendant Fort Collins denies Paragraph 337 of Plaintiffs' First Amended Complaint.

338. Defendant Fort Collins denies Paragraph 338 of Plaintiffs' First Amended Complaint.

339. Defendant Fort Collins denies Paragraph 339 of Plaintiffs' First Amended Complaint.

340. Defendant Fort Collins denies Paragraph 340 of Plaintiffs' First Amended Complaint.

## **VI. PRAYER FOR RELIEF**

341. Defendant Fort Collins denies the allegations of Plaintiffs' First Amended Complaint not specifically responded to herein including, but not limited the WHEREFORE clause(s) in Plaintiffs' First Amended Complaint.

## **DEFENSES AND AFFIRMATIVE DEFENSES**

1. Plaintiffs' Complaint fails, at least in part, to state a claim upon which relief can be granted against this Defendant.
2. Plaintiffs may have failed to mitigate their damages, if any, as required by law.
3. Defendant's policies and procedures prohibit illegal discrimination or retaliation of any kind.
4. The proximate cause of Plaintiffs' alleged damages, if any, may have been the acts or omissions of Plaintiffs or a third party or parties over whom the Defendant has no control, or for whom the Defendant is not legally responsible.
5. All actions taken by Defendant with respect to Plaintiffs were reasonable as a matter of law.
6. All actions taken by Defendant were for legitimate, valid and non-discriminatory reasons.
7. Plaintiffs' claims for punitive damages, at least as against this Defendant, fail as a matter of law.

8. Plaintiffs' damages, if any, are limited by 42 U.S.C. §§ 1981a(b), 1981a(b)(4), 1981a(a-b) and 2000(e)(g), and 29 U.S.C. § 626(b).
9. Defendant did not retaliate as a matter of law.
10. There is no causal connection between Plaintiffs' alleged protected activity and any alleged retaliatory actions by Defendant.
11. This Defendant did not have knowledge of some protected activity alleged by Plaintiffs.
12. Defendant would have taken the same actions it did with regard to Plaintiffs' employment in the absence of Plaintiffs' complaints, criticisms, alleged protected activity, and allegations of discrimination and retaliation.
13. Any actions taken by Defendant against Plaintiffs were based on reasonable factors other than race, national origin or retaliation.
14. At all times pertinent herein, Defendant acted in accordance with all common law and statutory obligations and without any intent to cause Plaintiffs harm.
15. Plaintiffs' claims are barred or reduced by Plaintiffs' failure to seek appropriate redress through Defendant's policies and procedures.
16. Plaintiffs did not act reasonably in pursuing their allegations of discriminatory conduct.
17. The written warning/reprimand to Araujo was not an adverse employment action.
18. Gonzales's staying on probation for additional time was not an adverse employment action.

19. Gonzales's non-selection for the School Resource Officer sergeant position was not an adverse employment action.
20. Some of Plaintiffs' claims, or portions thereof, are untimely under the applicable statute of limitations, and/or barred by the doctrine of release, waiver, estoppels and/or laches.
21. Plaintiffs have failed to exhaust administrative remedies with respect to certain claims or portions thereof, and/or the claims asserted exceed the scope of the administrative charges or proceedings brought by Plaintiff.

**DEFENDANT FORT COLLINS DEMANDS A TRIAL BY JURY**

Dated this 26<sup>th</sup> day of September, 2016.

Respectfully submitted,

*S/ Cathy Havener Greer*

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**THE CITY OF FORT COLLINS**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on September 26, 2016, a true and correct copy of the above and foregoing **DEFENDANT THE CITY OF FORT COLLINS' ANSWER AND JURY DEMAND TO PLAINTIFFS' FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL** was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following email addresses:

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