

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:18-cv-03204-RBJ

LORI FRANK,

Plaintiff,

vs.

CITY OF FORT COLLINS, a municipality;
TERENCE F. JONES, former Interim Chief of Police, in his individual capacity; and
JEROME SCHIAGER, former Deputy Chief of Police, in his individual capacity,

Defendant.

**DEFENDANT CITY OF FORT COLLINS ANSWER TO PLAINTIFF'S COMPLAINT
AND JURY DEMAND**

Defendant, City of Fort Collins, ("Defendant"), by and through its attorneys Cathy Havener Greer, and Kathryn A. Starnella, of Wells, Anderson & Race, LLC and Jenny Lopez Filkins, Senior Assistant Attorney, City of Fort Collins, hereby for its Answer to Plaintiff's Complaint with Jury Demand ("Complaint") states as follows:

I. REASONS FOR THE LAWSUIT

Defendant City states that Plaintiff's 293 paragraph Complaint at Section I. "Reasons For This Lawsuit" is improper and does not comply with the provisions of Fed.R.Civ.P. 8, which requires "a short and plain statement of the grounds for the court's jurisdiction," "a short and plain statement of the claim showing that the pleader is entitled to relief," and "a demand for the relief sought." Section I contains 20 paragraphs of argument, inaccurate characterizations of

documents and events, and irrelevant allegations concerning persons not parties to this lawsuit.

Defendant denies all allegations of paragraphs 1-20 not specifically admitted herein.

1. With regard to the allegations of Paragraph 1 of Plaintiff's Complaint, Defendant City denies that the FCPS has a systemic culture that marginalizes work efforts or contributions of female employees, and denies that the racial and gender makeup of the FCPS is a result of illegal discrimination, and states that the makeup of the FCPS is representative of the community it serves and the qualified applicants for positions with the FCPS.
2. Defendant City denies the allegations of Paragraph 2 of Plaintiff's Complaint.
3. With regard to the allegations of Paragraph 3 of Plaintiff's Complaint, Defendant City states that the email from former Chief Hutto speaks for itself.
4. With regard to the allegations of Paragraph 4 of Plaintiff's Complaint, Defendant City admits that allegations were made about violations of 17 policies and further states that as a result of outside investigations into each of the 62 allegations, 48 allegations were unfounded, 3 allegations resulted in exonerated findings, 1 allegation finding was that the subject employee was not involved and 5 allegations were not sustained. Five allegations involving two individuals were sustained.
5. With regard to the allegations of Paragraph 5 of Plaintiff's Complaint, Defendant City denies the allegations of Paragraph 5 of Plaintiff's Complaint.
6. Defendant City denies the allegations of Paragraph 6 of Plaintiff's Complaint.
7. With regard to the allegations of Paragraph 7 of Plaintiff's Complaint, Defendant City denies that FCPS engaged in or engages in discriminatory practices, but admits that two FCPS employees filed a lawsuit against the City in 2016.

8. Defendant City denies the allegations of Paragraph 8 of Plaintiff's Complaint.
9. Defendant City denies the allegations of Paragraph 9 of Plaintiff's Complaint.
10. With regard to the allegations of Paragraph 10 of Plaintiff's Complaint, Defendant City admits that it hired an outside investigator in 2017.
11. Defendant City denies the allegations of Paragraph 11 of Plaintiff's Complaint.
12. With regard to the allegations of Paragraph 12 of Plaintiff's Complaint, Defendant City states that the document speaks for itself.
13. Defendant City admits the allegations of Paragraph 13 of Plaintiff's Complaint.
14. Defendants City denies the allegations of Paragraph 14 of Plaintiff's Complaint.
15. With regard to the allegations of Paragraph 15 of Plaintiff's Complaint, Defendant City admits that two women resigned from the FCPS in 2017.
16. Defendant City denies the allegations of Paragraph 16 of Plaintiff's Complaint.
17. Defendant City denies the allegations of Paragraph 17 of Plaintiff's Complaint.
18. Defendant City denies the allegations of Paragraph 18 of Plaintiff's Complaint.
19. With regard to the allegations of Paragraph 19 of Plaintiff's Complaint, Defendant City states that Paragraph 19 makes a political statement that does not require a response from this defendant.
20. With regard to the allegations of Paragraph 20 of Plaintiff's Complaint, Defendant City denies that Plaintiff has suffered any inequities that were caused by the City and denies that this lawsuit is an appropriate vehicle for remedying any inequities that are reported by the Institute for Women's Policy Research.

II. JURISDICTION AND VENUE

21. Defendant City admits that Plaintiff asserts in this lawsuit claims for alleged violations of state and federal law, but denies all allegations of Paragraph 21 of Plaintiff's Complaint that the City violated any state or federal law and denies that the state law claims have any alleged factual basis that is independent from those of the federal claims asserted under Title VII and ADEA.
22. With regard to the allegations of Paragraph 22 of Plaintiff's Complaint, Defendant City admits that venue is proper.
23. With regard to the allegations of Paragraph 23 of Plaintiff's Complaint, Defendant City is without knowledge or information as to when Plaintiff received the Dismissal and Notice of Right to Sue and therefore can neither admit nor deny the factual allegations of Paragraph 23, and therefore denies the same.

III. PARTIES

24. Defendant City admits the allegations of Paragraph 24 of Plaintiff's Complaint.
25. With regard to the allegations of Paragraph 25 of Plaintiff's Complaint, Defendant City admits that it is a municipal corporation and that it employs Plaintiff and that the City is an employer as defined by 29 U.S.C. 630, 42 U.S.C. 2000e(b), and 29 U.S.C. 203(d).
26. With regard to the allegations of Paragraph 26 of Plaintiff's Complaint, Defendants City admits that Jones was the Interim Chief of Police of FCPS from May 13, 2017 until June 3, 2018, and denies that he was the final policymaker for Fort Collins as Plaintiff alleges.
27. With regard to the allegations of Paragraph 27 of Plaintiff's Complaint, Defendant City admits that all of Jones's actions were undertaken within the course and scope of his

employment as Interim Chief of Fort Collins, and denies the allegations of the scope of Jones's authority as those allegations call for a legal conclusion.

28. Defendant denies the allegations of Paragraph 28 of Plaintiff's Complaint.

29. Defendant City admits the allegations of Paragraph 29 of Plaintiff's Complaint.

IV. GENERAL FACTUAL ALLEGATIONS

30. Defendant City admits the allegations of Paragraph 30 of Plaintiff's Complaint.

31. Defendant City admits the allegations of Paragraph 31 of Plaintiff's Complaint.

32. Defendant City denies the allegations of Paragraph 32 of Plaintiff's Complaint.

33. With regard to the allegations of Paragraph 33 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.

34. With regard to the allegations of Paragraph 34 of Plaintiff's Complaint, Defendant City states that the crime analyst position has a job description that sets forth the responsibilities of the position.

35. Defendant City denies the allegations of Paragraph 35 of Plaintiff's Complaint.

36. With regard to the allegations of Paragraph 36 of Plaintiff's Complaint, Defendant City states that Plaintiff's performance evaluations speak for themselves.

37. With regard to the allegations of Paragraph 37 of Plaintiff's Complaint, Defendant City states that Plaintiff's performance evaluations speak for themselves.

38. Defendant City denies the allegations of Paragraph 38 of Plaintiff's Complaint.

39. With regard to the allegations of Paragraph 39 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.
40. With regard to the allegations of Paragraph 40 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.
41. With regard to the allegations of Paragraph 41 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.
42. With regard to the allegations of Paragraph 42 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.
43. With regard to the allegations of Paragraph 43 of Plaintiff's Complaint, Defendant City is without knowledge or information as to why Plaintiff takes the alleged action.
44. With regard to the allegations of Paragraph 44 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.
45. With regard to the allegations of Paragraph 45 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.

46. With regard to the allegations of Paragraph 46 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.
47. With regard to the allegations of Paragraph 47 of Plaintiff's Complaint, Defendant City states that the document speaks for itself.
48. With regard to the allegations of Paragraph 48 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.
49. With regard to the allegations of Paragraph 49 of Plaintiff's Complaint, Defendant City is without knowledge or information as to the time period plaintiff is referencing and therefore is unable to form a belief as to the truth of the allegations and denies the same.
50. With regard to the allegations of Paragraph 50 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.
51. With regard to the allegations of Paragraph 51 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.
52. Defendants deny the allegations of Paragraph 52 of Plaintiff's Complaint.
53. Defendant City denies the allegations of Paragraph 53 of Plaintiff's Complaint.
54. With regard to the allegations of Paragraph 54 of Plaintiff's Complaint, Defendant City denies Plaintiff's characterization as set forth in Paragraph 54.

55. With regard to the allegations of Paragraph 55 of Plaintiff's Complaint, Defendant City states that the document speaks for itself.

56. With regard to the allegations of Paragraph 56 of Plaintiff's Complaint, Defendant City states that the document speaks for itself.

57. Defendant City admits the allegations of Paragraph 57 of Plaintiff's Complaint.

58. Defendant City admits the allegations of Paragraph 58 of Plaintiff's Complaint.

59. Defendant City denies the allegations of Paragraph 59 of Plaintiff's Complaint.

60. Defendant City denies the allegations of Paragraph 60 of Plaintiff's Complaint.

61. Defendant City denies the allegations of Paragraph 61 of Plaintiff's Complaint.

62. Defendant City denies the allegations of Paragraph 62 of Plaintiff's Complaint.

63. Defendant City denies the allegations of Paragraph 63 of Plaintiff's Complaint.

64. With regard to the allegations of Paragraph 64 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.

65. With regard to the allegations of Paragraph 65 of Plaintiff's Complaint, Defendant City denies Plaintiff's characterization.

66. With regard to the allegations of Paragraph 66 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.

67. With regard to the allegations of Paragraph 67 of Plaintiff's Complaint, Defendant City denies Plaintiff's characterization.

68. With regard to the allegations of Paragraph 68 of Plaintiff's Complaint, Defendant City denies Plaintiff's characterization.

69. With regard to the allegations of Paragraph 69 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.

70. Defendant City admits the allegations of Paragraph 70 of Plaintiff's Complaint.

71. With regard to the allegations of Paragraph 71 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the timing and incident to which Plaintiff refers and to the truth of the allegations about the timing and incident to which Plaintiff refers and denies the same.

72. With regard to the allegations of Paragraph 72 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.

73. With regard to the allegations of Paragraph 73 of Plaintiff's Complaint, Defendant City admits that Plaintiff complained to Hutto about Schiager.

74. With regard to the allegations of Paragraph 74 of Plaintiff's Complaint, Defendant City admits that the memorandum was dated May 8, 2014.

75. With regard to the allegations of Paragraph 75 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.

76. With regard to the allegations of Paragraph 76 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the

allegations about Plaintiff's motivation and deny the same. Defendant City admits that Plaintiff voiced concerns to Hutto in late 2015.

77. With regard to the allegations of Paragraph 77 of Plaintiff's Complaint, Defendant City states that the complaint speaks for itself.

78. With regard to the allegations of Paragraph 78 of Plaintiff's Complaint, Defendant City states that the complaint speaks for itself.

79. With regard to the allegations of Paragraph 79 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.

80. With regard to the allegations of Paragraph 80 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.

81. With regard to the allegations of Paragraph 81 of Plaintiff's Complaint, Defendant City admits that Schiager, with Hutto's approval, discontinued the process of reclassifying Plaintiff's position to a higher-level position.

82. Defendant City admits the allegations of Paragraph 82 of Plaintiff's Complaint.

83. With regard to the allegations of Paragraph 83 of Plaintiff's Complaint, Defendant City denies Plaintiff's characterization of the remarks Schiager made regarding the Plaintiff's 1st quarter 2016 performance review. Defendant states that the document speaks for itself.

84. With regard to the allegations of Paragraph 84 of Plaintiff's Complaint, Defendant City states that the Plaintiff's 1st quarter 2016 performance review speaks for itself.

85. With regard to the allegations of Paragraph 85 of Plaintiff's Complaint, Defendant City denies that Plaintiff presented evidence that Schiager's criticisms of her performance were unfounded. Defendant is without knowledge of information sufficient to form a belief as to the truth of the remainder of the allegations and denies the same.

86. With regard to the allegations of Paragraph 86 of Plaintiff's Complaint, Defendant City is without knowledge of information sufficient to form a belief as to the truth of the remainder of the allegations and denies the same.

87. Defendant City denies the allegations of paragraph 87 of Plaintiff's Complaint.

88. With regard to the allegations of Paragraph 88 of Plaintiff's Complaint, Defendant City admits the allegations of Paragraph 88 of Plaintiff's Complaint.

89. Defendant City denies the allegations of Paragraph 89 of Plaintiff's Complaint.

90. Defendant City denies the allegations of Paragraph 90 of Plaintiff's Complaint.

91. Defendant City denies the allegations of Paragraph 91 of Plaintiff's Complaint.

92. Defendant City denies the allegations of Paragraph 92 of Plaintiff's Complaint.

93. With regard to the allegations of Paragraph 93 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the same.

94. With regard to the allegations of Paragraph 94 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the same.

95. Defendant City denies the allegations of Paragraph 95 of Plaintiff's Complaint.

96. With regard to the allegations of Paragraph 96 of Plaintiff's Complaint, Defendant City admits that Martin had been employed by the Defendant City for approximately one year at the time he began to work for Fort Collins Police Services and because no law enforcement experience was required for the position, placed Martin in the position because he met the position qualifications.

97. Defendant City admit the allegations of Paragraph 97 of the Plaintiff's Complaint.

98. With regard to the allegations of Paragraph 98 of Plaintiff's Complaint, Defendant City admit the allegations of Paragraph 98 of the Plaintiff's Complaint.

99. Defendant City admits the allegations of Paragraph 99 of Plaintiff's Complaint

100. With regard to the allegations of Paragraph 100 of Plaintiff's Complaint, Defendant City denies Plaintiff's characterization of the complaints filed as the majority of the policy violation allegations were unrelated to discrimination.

101. Defendant City denies the allegations of Paragraph 101 of Plaintiff's Complaint.

102. Defendant City denies the allegations of Paragraph 102 of the Plaintiff's Complaint.

103. With regard to the allegations of Paragraph 103 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.

104. With regard to the allegations of Paragraph 104 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the same.

105. Defendant City admits the allegations of Paragraph 105 of Plaintiff's Complaint.

106. With regard to the allegations of Paragraph 106 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegation of "newly initiated investigation," and therefore denies the same.

107. With regard to the allegations of Paragraph 107 of Plaintiff's Complaint, Defendant City admits Frank's performance continued to fail to meet expectations and that Schiager continued to hold Frank accountable for her performance deficiencies, which were not minor in nature.

108. Defendant City denies the allegations of Paragraph 108 of Plaintiff's Complaint.

109. Defendant City admits the allegations of Paragraph 109 of Plaintiff's Complaint.

110. Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 110 of Plaintiff's Complaint and therefore denie the same.

111. With regard to the allegations of Paragraph 111 of Plaintiff's Complaint, Defendant City states that the document speaks for itself.

112. With regard to the allegations of Paragraph 112 of Plaintiff's Complaint, Defendant City admits that Defendant Schiager was placed on paid administrative leave on or about but denies that there is a correlation between that leave status and Plaintiff's complaints or allegations about Defendant Schiager.

113. Defendant City denies the allegations of Paragraph 113 of Plaintiff's Complaint.

114 .With regard to the allegations of Paragraph 114 of Plaintiff's Complaint, Defendant City admits the allegations of Paragraph 114 of Plaintiff's Complaint but Hutto only invited employees with supervisory responsibilities and Plaintiff has never had such responsibilities.

115. Defendant City denies the allegations of Paragraph 115 of Plaintiff's Complaint.

116. Defendant City denies the allegations of Paragraph 116.

117. With regard to the allegations of Paragraph 117 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 117 of Plaintiff's Complaint and therefore denies the same.

118. With regard to the allegations of Paragraph 118 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 118 of Plaintiff's Complaint and therefore denies the same.

119. With regard to the allegations of Paragraph 119 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 119 of Plaintiff's Complaint and therefore denies the same.

120. Defendant City admits the allegations of Paragraph 120 of Plaintiff's Complaint.

121. Defendant City denies the allegations of Paragraph 121 of Plaintiff's Complaint.

122. Defendant City denies the allegations of Paragraph 122 of Plaintiff's Complaint.

123. Defendant City admits the allegations of Paragraph 123 of Plaintiff's Complaint.

124. With regard to the allegations of Paragraph 124 of Plaintiff's Complaint, while Defendant City admits that "consistent pattern of errors in reporting data and lack of analysis" was one of the bases for the issuance of a performance improvement plan to Plaintiff, several other performance deficiencies were noted.

125. With regard to the allegations of Paragraph 125 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 125 of Plaintiff's Complaint and therefore denies the same.

126. Defendant City denies the allegations of Paragraph 126 of Plaintiff's Complaint.

127. Defendant City denies the allegations of Paragraph 127 of Plaintiff's Complaint.

128. Defendant City denies the allegations of Paragraph 128 of Plaintiff's Complaint.

129. With regard to the allegations of Paragraph 129 Defendant City states that the "another comment" speaks for itself.

130. With regard to the allegations of Paragraph 130 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 130 of Plaintiff's Complaint and therefore denies the same.

131. Defendant City denies the allegations of Paragraph 131 of Plaintiff's Complaint.

132. Defendant City admits the allegations of Paragraph 132 of Plaintiff's Complaint.

133. Defendant City admits the allegations of Paragraph 133 of Plaintiff's Complaint.

134. Defendant City admits the allegations of Paragraph 134 of Plaintiff's Complaint

135. Defendant City denies the allegations of Paragraph 135 of Plaintiff's Complaint.

136. Defendant City denies the allegations of Paragraph 136 of Plaintiff's Complaint.

137. With regard to the allegations of Paragraph 137 of Plaintiff's Complaint, Defendant City states that there was never a need or basis for placing Martin on PIP or to give him a negative evaluation.

138. With regard to the allegations of Paragraph 138 of Plaintiff's Complaint, Defendant City states that Martin was given opportunity for training that aligned with his supervisory responsibilities and that Plaintiff does not supervise any employees.

139. With regard to the allegations of Paragraph 139 of Plaintiff's Complaint, Defendant City states that the allegation is unintelligible.

140. Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 140 of Plaintiff's Complaint and therefore denies the same.

141. Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 141 of Plaintiff's Complaint and therefore denies the same.

142. Defendant City admits the allegations of Paragraph 142 of Plaintiff's Complaint.

143. Defendant City admits the allegations of Paragraph 143 of Plaintiff's Complaint.

144. Defendant City denies the allegations of Paragraph 144 of Plaintiff's Complaint.

145. Defendant City admits the allegations of Paragraph 145 of Plaintiff's Complaint.

146. Defendant City denies the allegations of Paragraph 146 of Plaintiff's Complaint.

147. Defendant City admits the allegations of Paragraph 147 of Plaintiff's Complaint.

148. With regard to the allegations of Paragraph 148 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the same.

149. With regard to the allegations of Paragraph 149 of Plaintiff's Complaint, Defendant City admits that Defendant Schiager had staff meetings that did not include Plaintiff but such meetings included only employees with supervisory responsibilities and Plaintiff has never had supervisory responsibilities.

150. Defendant City admits the allegations of Paragraph 150 of Plaintiff's Complaint.

151. Defendant City admits the allegations of Paragraph 151 of Plaintiff's Complaint.

152. With regard to the allegations of Paragraph 152 of Plaintiff's Complaint, Defendant City states that Greg Yeager met with Plaintiff on March 23, 2017 to set a plan for completion and to keep it from negatively affecting her pay, and asked her why she had not been working on the plan. Defendant City states that Plaintiff mischaracterizes the discussions between her and Yeager.

153. Defendant City denies the allegations of Paragraph 153 of Plaintiff's Complaint.

154. Defendant City denies the allegations of Paragraph 154 of Plaintiff's Complaint

155. Defendant City denies the allegations of Paragraph 155 of Plaintiff's Complaint.

156. With regard to the allegations of Paragraph 156 of Plaintiff's Complaint, Defendant City states that Plaintiff's 1st Quarter 2017 performance review speaks for itself.

157. With regard to the allegations of Paragraph 157, Defendant City admits that the Plaintiff's 1st Quarter written performance review speaks for itself.

158. With regard to the allegations of Paragraph 158 Defendant City admits that the Plaintiff's 1st Quarter written performance review speaks for itself.

159. Defendant City admits the allegations of Paragraph 159 of Plaintiff's Complaint.

160. Defendant City denies the allegations of Paragraph 160 of Plaintiff's Complaint.

161. With regard to the allegations of Paragraph 161 of Plaintiff's Complaint, Defendant City states that the Patrol Division asked Martin to help show what factors, including but not limited to training, leave, and injury, contributed to certain officers not being available for street deployment.

162. Defendant City denies the allegations of Paragraph 162 of Plaintiff's Complaint.

163. Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 163 of Plaintiff's Complaint and therefore denies the same.

164. Defendant City denies the allegations of Paragraph 164 of Plaintiff's Complaint.

165. Defendant City denies the allegations of Paragraph 165 of Plaintiff's Complaint.

166. Defendant City denies the allegations of Paragraph 166 of Plaintiff's Complaint.

Martin's predecessor was a female employee.

167. With regard to the allegations of Paragraph 167 Defendant City admits that the Plaintiff's 2nd quarter 2017 written performance review speaks for itself.

168. With regard to the allegations of Paragraph 168 of Plaintiff's Complaint, Defendant City states that Jones met with Plaintiff and that the document speaks for itself.

169. Defendant City denies the allegations of Paragraph 169 of Plaintiff's Complaint.

170. Defendant City admits the allegations of Paragraph 170 of Plaintiff's Complaint.

171. Defendant City denies the allegations of Paragraph 171 of Plaintiff's Complaint.

172. Defendant City denies the allegations of Paragraph 172 of Plaintiff's Complaint.

173. With regard to the allegations of Paragraph 173 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the same.

174. Defendant City admits the allegations of Paragraph 174 of Plaintiff's Complaint.

175. With regard to the allegations of Paragraph 175 of Plaintiff's Complaint, Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the same.

176. With regard to the allegations of Paragraph 176 Defendant City admits that FCPS Records Supervisor resignation speaks for itself.

177. With regard to the allegations of Paragraph 177 Defendant City admits that an employee with initials M.G. authored an email that speaks for itself.

178. With regard to the allegations of Paragraph 178 Defendant City admits that an employee with initials M.G. authored an email that speaks for itself.

179. Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 179 of Plaintiff's Complaint and therefore denies the same.

180. Defendant City denies the allegations of Paragraph 180 of Plaintiff's Complaint.

181. Defendant City is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 181 that Plaintiff "put in a request for a Leadership Development Program that was denied" and therefore denies the same, but states that Martin was authorized to participate in leadership development opportunities because he has supervisory responsibilities and Plaintiff has never had such responsibilities.

182. Defendant City admits the allegations of Paragraph 182 of Plaintiff's Complaint.

183. Defendant City admits the allegations of Paragraph 183 of Plaintiff's Complaint.

184. With regard to the allegations of Paragraph 184 of Plaintiff's Complaint, Defendant City states that Jones's email speaks for itself.

185. With regard to the allegations of Paragraph 185 of Plaintiff's Complaint, Defendant City states that Jones's email speaks for itself.

186. With regard to the allegations of Paragraph 186 Defendant City states that the Investigative Summary speaks for itself.

187. With regard to the allegations of Paragraph 187 Defendant City states that the Investigative Summary speaks for itself.

188. With regard to the allegations of Paragraph 188, Defendant City states that the Investigation Summary speaks for itself.

189. With regard to the allegations of Paragraph 189, Defendant City states that the Investigative Summary speaks for itself.

190. Defendant City denies the allegations of Paragraph 190 of Plaintiff's Complaint.

191. Defendant City denies the allegations of Paragraph 191 of Plaintiff's Complaint.

192. With regard to the allegations of Paragraph 192 of Plaintiff's Complaint, Defendant City admits that the PIP and negative evaluations remain in Plaintiff's personnel file but denies that they resulted from an unreasonable standard Defendant Schiager imposed on Frank.

193. With regard to the allegations of Paragraph 193 of Plaintiff's Complaint, Defendant City states that M.J.'s email speaks for itself.

194. With regard to the allegations of Paragraph 194 of Plaintiff's Complaint, Defendant City is without information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 194 of Plaintiff's Complaint and therefore denies the same.

195. With regard to the allegations of Paragraph 195 of Plaintiff's Complaint, while Defendant City admits to the allegations of Paragraph 195 of Plaintiff's Complaint, the

“needs improvement” rating was based on Plaintiff’s documented misconduct when interacting with management personnel.

196. Defendant City denies the allegations of Paragraph 196 of Plaintiff’s Complaint and states that the Job Architecture project was a multi-year redesign of the City’s job classification and compensation structures.

197. Defendant City admits the allegations of Paragraph 197 of Plaintiff’s Complaint.

198. Defendant City admits the allegations of Paragraph 198 of Plaintiff’s Complaint.

199. Defendant City denies the allegations of Paragraph 199 of Plaintiff’s Complaint.

200. Defendant City denies the allegations of Paragraph 200 of Plaintiff’s Complaint.

201. With regard to the allegations of Paragraph 201 of Plaintiff’s Complaint, Defendant City admits that information about the Job Architecture project was released in the spring of 2018.

202. Defendant City admits the allegations of Paragraph 202 of Plaintiff’s Complaint.

203. Defendant City admits the allegations of Paragraph 203 of Plaintiff’s Complaint.

204. Defendant City admits the allegations of Paragraph 204 of Plaintiff’s Complaint, but states that Plaintiff’s annual base salary was \$70,992.

205. Defendant City admits the allegations of Paragraph 205 of Plaintiff’s Complaint.

206. With regard to the allegations of Paragraph 206 of Plaintiff’s Complaint, Defendant City states that at the time of implementation in March 2018, Martin’s annual salary was \$72,493.

207. With regard to the allegations of Paragraph 207 of Plaintiff’s Complaint, Defendant City states that the definition speaks for itself and states that all jobs in the Professional career group are exempt from overtime consistent with the requirement of the FLSA.

208. Defendant City denies the allegations of Paragraph 208 of Plaintiff’s Complaint.

209. Defendant City states that with regard to the allegations of Paragraph 209 of Plaintiff's Complaint, the Professional career group job titles include Specialist, Analyst, Planner, Architect, Engineer, Accountant, and Project Manager.

210. With regard to the allegations of Paragraph 210 of Plaintiff's Complaint, Defendant City states that job titles at the time of implementation were not a consideration in the placement into the new architecture.

211. With regard to the allegations of Paragraph 211 of Plaintiff's Complaint, Defendant City states that the job posting for the Crime Analyst job dated December 2012 speaks for itself.

212. Defendant City denies the allegations of Paragraph 212 of Plaintiff's Complaint.

213. With regard to the allegations of Paragraph 213 of Plaintiff's Complaint, Defendant City states that the pay ranges vary within the Professional and Administrative career groups and that the pay ranges are based on the external market and vary across job functions and career groups, and states that the positions in the Professional category, because of the higher-level responsibilities, are classified as exempt from the Fair Labor Standards Act and those in the Administrative category are classified as non-exempt from the Fair Labor Standards Act based on objective criteria.

214. With regard to the allegations of Paragraph 214 of Plaintiff's Complaint, Defendant City states that the classifications include four levels (P1-P4) and that the document establishing pay ranges for the various functions speaks for itself.

215. With regard to the allegations of Paragraph 215 of Plaintiff's Complaint, Defendant City states that document establishing the pay range for Protective Service function speaks for itself.

216. Defendant City denies the allegations of Paragraph 216 of Plaintiff's Complaint.

217. Defendant City denies the allegations of Paragraph 217 of Plaintiff's Complaint.

218. Defendant City denies the allegations of Paragraph 218 of Plaintiff's Complaint.

219. Defendant City denies the allegations of Paragraph 219 of Plaintiff's Complaint.

220. With regard to the allegations of Paragraph 220 of Plaintiff's Complaint, Defendant City states that the position of Crime Analyst with the City is currently held by two females at Fort Collins Police Services.

221. With regard to the allegations of Paragraph 221 of Plaintiff's Complaint, Defendant City states that the Criminalist position is in the Protective Services Function, Administrative career group and A6 level, the highest of the Administrative career group and is an overtime eligible position under the FLSA.

222. With regard to the allegations of Paragraph 222 of Plaintiff's Complaint, Defendant City states that the job posting for the Criminalist job, dated January 2013 speaks for itself.

223. With regard to the allegations of Paragraph 223 of Plaintiff's Complaint, Defendant City states that there are currently three incumbents in the Criminalist job, all of whom have self-identified as female.

224. These Defendants deny the allegations of Paragraph 224 of Plaintiff's Complaint.

225. With regard to the allegations of Paragraph 225 of Plaintiff's Complaint, Defendant City states that the statement of discrimination speaks for itself.

V. CLAIMS FOR RELIEF

FIRST AND SECOND CLAIMS FOR RELIEF
GENDER DISCRIMINATION IN VIOLATION OF TITLE VII
AND COLORADO ANTI-DISCRIMINATION ACT
(Against the City of Fort Collins)

226. Defendant City reincorporates and realleges its and his responses to Paragraphs 1 through 225 as if fully set forth herein.

227. With regard to the allegations of Paragraph 227 of Plaintiff's Complaint, Defendant City admits that Plaintiff is a female.

228. Defendant City denies the allegations of Paragraph 228 of Plaintiff's Complaint.

229. Defendants City denies the allegations of Paragraph 229 of Plaintiff's Complaint.

230. Defendant City denies the allegations of Paragraph 230 of Plaintiff's Complaint.

231. With regard to the allegations of Paragraph 231 of Plaintiff's Complaint, Defendant City states that under City policies, an employee on a performance improvement plan, as was Plaintiff, was not eligible for a raise.

232. Defendant City denies the allegations of Paragraph 232 of Plaintiff's Complaint.

233. With regard to the allegations of Paragraph 233 of Plaintiff's Complaint, Defendant City states that certain Financial Analyst positions are classified as FLSA exempt professional positions and the current incumbent is a male.

234. Defendant City denies the allegations of Paragraph 234 of Plaintiff's Complaint.

235. Defendant City denies the allegations of Paragraph 235 of Plaintiff's Complaint.

236. Defendant City denies the allegations of Paragraph 236 of Plaintiff's Complaint.

237. Defendant City denies the allegations of Paragraph 237 of Plaintiff's Complaint.

238. Defendant City denies the allegations of Paragraph 238 of Plaintiff's Complaint.

239. Defendant City denies the allegations of Paragraph 239 of Plaintiff's Complaint.

240. Defendant City denies the allegations of Paragraph 240 of Plaintiff's Complaint.

THIRD AND FOURTH CLAIMS FOR RELIEF
RETALIATION IN VIOLATION OF TITLE VII
AND COLORADO ANTI- DISCRIMINATION ACT
(Against the City of Fort Collins)

241. Defendant City reincorporates and realleges its and his responses to Paragraphs 1 through 240 as if fully set forth herein.

242. With regard to these allegations of Paragraph 242 of Plaintiff's Complaint, Defendant City states that what is a protected activity within the meaning of Title VII and CADA is a question of law, therefore no response is necessary.

243. Defendant City denies the allegations of Paragraph 243 of Plaintiff's Complaint.

244. Defendant City denies the allegations of Paragraph 244 of Plaintiff's Complaint.

245. Defendant City denies the allegations of Paragraph 245 of Plaintiff's Complaint.

246. Defendant City denies the allegations of Paragraph 246 of Plaintiff's Complaint.

247. Defendant City denies the allegations of Paragraph 247 of Plaintiff's Complaint.

FIFTH AND SIXTH CLAIMS FOR RELIEF
DISCRIMINATION IN VIOLATION OF THE ADEA
AND COLORADO ANTI- DISCRIMINATION ACT
(Against the City of Fort Collins)

248. Defendant City reincorporates and realleges its and his responses to Paragraphs 1 through 247 as if fully set forth herein.

249. Defendant City is filing a Motion to Dismiss contemporaneously herewith therefore no response is necessary.

250. Defendant City is filing a Motion to Dismiss contemporaneously herewith therefore no response is necessary.

251. Defendant City is filing a Motion to Dismiss contemporaneously herewith therefore no response is necessary.

252. Defendant City is filing a Motion to Dismiss contemporaneously herewith therefore no response is necessary.

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261. Defendant City is filing a Motion to Dismiss contemporaneously herewith therefore no response is necessary.

262. Defendant City is filing a Motion to Dismiss contemporaneously herewith therefore no response is necessary.

263. Defendant City is filing a Motion to Dismiss contemporaneously herewith therefore no response is necessary.

SEVENTH CLAIM FOR RELIEF
DISCRIMINATION IN VIOLATION OF THE EQUAL PAY ACT
(Against the City of Fort Collins)

264. Defendant City reincorporates and realleges its and his responses to Paragraphs 1 through 263 as if fully set forth herein.

265. Defendant City denies the allegations of Paragraph 265 of Plaintiff's Complaint.

266. Defendant City denies the allegations of Paragraph 266 of Plaintiff's Complaint.

267. With regard to this allegations of Paragraph 267 of Plaintiff's Complaint, Defendant City states that the position held by Martin is not an appropriate comparator to Plaintiff's position, because it has substantially more significant responsibilities, is FLSA exempt, and is within the professional category.

268. Defendant City denies the allegations of Paragraph 268 of Plaintiff's Complaint.

269. Defendant City denies the allegations of Paragraph 269 of Plaintiff's Complaint.

270. Defendant City denies the allegations of Paragraph 270 of Plaintiff's Complaint.

EIGHTH CLAIM FOR RELIEF

**42 U.S.C. § 1983 AND EQUAL PROTECTION CLAUSE OF THE
FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION**
(Against Defendants Schiager and Jones in their Individual Capacities)

271. Defendants reincorporate and realleges its and his responses to Paragraph 1 through 270 as if fully set forth herein.

272. Defendant Jones is filing a Motion to Dismiss contemporaneously herewith therefore no response is necessary.

273. Defendant Jones is filing a Motion to Dismiss contemporaneously herewith therefore no response is necessary.

274. Defendant Jones is filing a Motion to Dismiss contemporaneously herewith therefore no response is necessary.

275. Defendant Jones is filing a Motion to Dismiss contemporaneously herewith therefore no response is necessary.

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291. Defendant Jones is filing a Motion to Dismiss contemporaneously herewith therefore no response is necessary.

292. Defendant Jones is filing a Motion to Dismiss contemporaneously herewith therefore no response is necessary.

293. Defendant Jones is filing contemporaneously herewith a Motion to Dismiss therefore no response is necessary.

294. Defendants deny all claims/allegations not specifically admitted.

PRAYER FOR RELIEF

Defendants deny that Plaintiff is entitled to any of the relief requested.

DEFENSES AND AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails, at least in part, to state a claim upon which relief can be granted against Defendants.
2. Plaintiff may have failed to mitigate her 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 Plaintiff's alleged damages, if any, may have been the acts or omissions of Plaintiff or a third party or parties over whom Defendant City has no control, or for whom the Defendant is not legally responsible.
5. All actions taken by Defendant City are reasonable as a matter of law.
6. All actions taken by Defendant City are for legitimate, valid and non-discriminatory reasons.
7. Plaintiff's claims for punitive damages under federal law fails as a matter of law.
8. Defendant did not retaliate as a matter of law.
9. There is no causal connection between Plaintiff's alleged protected activity and any alleged retaliatory action by Defendant City.
10. Defendant City would have taken the same actions it did with regard to Plaintiff's employment in the absence of Plaintiff's complaints, criticisms, alleged protected activity, and allegations of discrimination and retaliation.
11. Any actions taken by Defendant City against Plaintiff was based on reasonable factors other than gender.

12. At all times pertinent herein, Defendant City acted in accordance with all common law and statutory obligations and without any intent to cause Plaintiff harm.
13. Plaintiff's claims are barred or reduced by Plaintiff's failure to seek appropriate redress through Defendant City's policies and procedures.
14. Plaintiff did not act reasonably in pursuing her allegations of discriminatory conduct.
15. Plaintiff's 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).
16. There is no causal connection between Plaintiff's alleged protected activity and any alleged retaliatory actions by Defendant City.
17. Any actions taken by Defendants against Plaintiff were based on reasonable factors other than gender, age, or retaliation.
18. Plaintiff's CADA and Title VII claims are duplicative and Plaintiff is barred from any double recovery if she were to prevail in any respect.
19. Some of Plaintiff's claims, or portions thereof, are untimely under the applicable statute of limitations, and/or barred by the doctrines of payment, waiver, estoppel and/or laches.
20. 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.
21. Plaintiff's 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.

**DEFENDANTS CITY OF FORT COLLINS AND TERENCE F. JONES
DEMAND A TRIAL BY JURY**

Dated this 31ST day of January, 2019.

Respectfully submitted,

S/ Cathy Havener Greer

Cathy Havener Greer

Kathryn A. Starnella

Wells, Anderson & Race, LLC

1700 Broadway, Suite 1020

Denver, CO 80290

Telephone: (303) 830-1212

Email: cgreer@warllc.com; kstarnella@warllc.com

***Attorneys for Defendants City of Fort Collins and
Terence F. Jones***

S/ Jenny Lopez Filkins

Jenny Lopez Filkins

Senior Assistant City Attorney

City of Fort Collins

300 LaPorte Avenue

Fort Collins, CO 80521

Telephone: (970) 221-6520

Email: jlopezfilkins@fcgov.com

Attorney for Defendant City of Fort Collins

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 31, 2019, a true and correct copy of the above and foregoing **DEFENDANT CITY OF FORT COLLINS ANSWER TO PLAINTIFF'S COMPLAINT AND JURY DEMAND** 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:

Jennifer Robinson, Esq.
Robinson & Associates Law Offices, LLC
7900 E. Union Avenue, Suite 1100
Denver, CO 80237
Email: jrobinson@raemployment.com
Attorneys for Plaintiff

David R. DeMuro, Esq.
Vaughan & DeMuro
720 South Colorado Boulevard
Penthouse, North Tower
Denver, CO 80246
Email: ddemuro@vaughandemuro.com
Attorneys for Defendant Schiager

Sara L. Cook, Esq.
Vaughan & DeMuro
111 South Tejon, Suite 545
Colorado Springs, CO 80903
T: 719-578-5500
Email: scook@vaughandemuro.com
Attorneys for Defendant Schiager

S/ Barbara McCall
Barbara McCall
Email: bmccall@warllc.com