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Attorneys for Maricopa County

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

SCOTT M. MCNAIR,

Plaintiff,

v.

MARICOPA COUNTY
DEPARTMENT OF
TRANSPORTATION, STATE OF
ARIZONA PERSONNEL BOARD,
KENNETH MEDLIN, TERRY
PETERSON, JENNIPHER RAMSEY,

Defendants.

NO. LC 2003-000530-002-DT

**SEPARTE ANSWER OF
DEFENDANTS MARICOPA
COUNTY DEPARTMENT OF
TRANSPORTATION, MEDLIN,
PETERSON, AND RAMSEY**

(Assigned to the Honorable
Michael D. Jones)

Defendants Maricopa County Department of Transportation (MCDOT),
Kenneth Medlin, Terry Peterson and Jennipher Ramsey, by their counsel, in
answer to Plaintiff's Complaint admit, deny, and allege as follows:

1
2 Defendants deny each and every allegation of Plaintiffs complaint not
3 specifically admitted herein.

4 II.

5 As to the allegations contained in Paragraph f Cause of Action,
6 Defendants admit these allegations.

7 NI.

8 As to the allegations contained in Paragraph II Plea for Leniency for Form
9 and Content of Pleadings of Plaintiff's Complaint, allegations do not require a
10 response from these Defendants.

11 IV.

12 As to the allegations contained in Paragraph III Demand for Trial De Novo
13 of Plaintiff's Complaint, Plaintiff is not entitled to a Trial De Novo under A.R.S. §
14 12-910.C.

15 V.

16 As to the allegations contained in Paragraph 1V Demand for Trial by Jury
17 of Plaintiff's Complaint, Plaintiff is not entitled to a trial by jury pursuant to
18 § 12-910.C. Therefore, Defendants deny this allegation.

19 VI.

20 As to the allegations contained in Paragraph V Record of Proceedings of
21 Plaintiff's Complaint, the allegations do not require a response from these
22 Defendants.

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VII.

As to the allegations contained in Paragraph VI Right to Amend of Plaintiffs Complaint, the allegations do not require response from these Defendants.

VIII.

As to the allegations contained in Paragraph VII Statement of Case of Plaintiff's Complaint, Defendants admit and deny the following factual allegations as follows:

1. Defendants admit that Plaintiff was employed by Maricopa County as a contract employee and was not entitled to merit protections afforded under the Maricopa County Employee Merit System.
2. Defendants deny that Plaintiff was subjected to numerous unlawful and prohibited acts while working for Maricopa County nor did Plaintiff file any complaints during his employment with Maricopa County alleging any unlawful or prohibited or discriminatory acts.
3. Defendants deny that Plaintiff was denied the opportunity to file any complaints alleging unlawful behavior or discriminatory conduct or was Plaintiff ever threatened with any reprisals for attempting to file such a complaint.
4. Defendants deny that Plaintiff's employment was terminated on June 30, 2002, rather Defendants affirmatively allege that Plaintiff's contract was allowed to expire.

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1 5. Defendants deny Plaintiff was denied an opportunity to apply for
2 permanent employment with Maricopa County prior to the expiration of his
3 contract.

4 6. Defendants admit that on July 17, 2002, Plaintiff sent an e-mail to
5 the Maricopa County Board of Supervisors and numerous employees employed
6 with Maricopa County in which the allegations of the complaint appeared to
7 allege claims of sexual harassment and retaliation by Ramsey, Medlin and
8 Peterson. Upon receipt of Plaintiffs complaint, Maricopa County investigated
9 his allegations.

10 7. Defendants deny the provisions of Arizona's Whistleblower Statute
11 as set forth in A.R.S. § 38-532 have been violated and affirmatively allege that
12 Plaintiff does not qualify as a whistleblower under this statute.

13 8. Defendants deny that Plaintiff is considered a person in "State
14 Service" and that he was entitled to a hearing before the State of Arizona
15 Personnel Board as the Maricopa County Merit System Commission does hear
16 complaints brought pursuant to A.R.S. § 38-532.

17 9. Defendants admit that a Motion to Dismiss was filed before the
18 State of Arizona Personnel Board challenging the Board's jurisdiction. Following
19 an evidentiary hearing, the Hearing Officer, Harold Merkow, held that the State
20 of Arizona Personnel Board had jurisdiction to hear Plaintiff's Complaint.
21 However, the Hearing Officer allowed the parties to file a Motion to Dismiss
22 arguing whether or not Plaintiff had properly complied with the procedural

1 requirements as set forth in A.R.S. § 38-532 thereby providing Plaintiff with
2 whistleblower status.

3 10. Defendants admit that the Hearing Officer granted the County's
4 Motion to Dismiss holding that Plaintiff had failed to comply with the provisions
5 set forth in A.R.S. § 38-532. This decision was properly up held by the State of
6 Arizona Personnel Board.

7 11. As to the remaining allegations contained in Paragraph VII of
8 Plaintiff's Complaint, Defendants deny each and every allegation not
9 admitted herein or Defendants have not responded to the allegations as they do
10 not concern the Defendants.

11 **IX.**

12 As to the allegations contained in Paragraph VIII Hearing Officer's
13 Findings, Decision, & Reasons Subject to Review of Plaintiff's Complaint,
14 Defendants neither admit or deny the allegations contained in Paragraph VII as
15 the allegations are purely a recitation of the findings in the Hearing Officer's
16 March 28, 2003 report and recommendation for dismissal of complaint.

17 **X.**

18 As to the allegations contained in Paragraph IX Grounds Upon Relief
19 Sought of Plaintiff's Complaint, Defendants deny each of the paragraphs
20 contained in Paragraph IX of Plaintiff's Complaint individually numbered 1-21.

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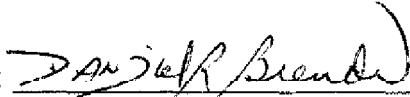
XI.

As to the allegations contained in Paragraph X Relief Sought of Plaintiffs Complaint, Defendants deny that Plaintiff is entitled to a trial de novo or trial by jury.

WHEREFORE, having fully answered Plaintiff's Complaint, Defendants ask this Court to issue an order upholding the State Personnel Board's decision of April 29, 2003; the Court issue an order affirming the findings of fact and conclusions of law; and order adopted by the State Personnel Board; and issue an order denying any relief to Plaintiff; and award Defendants costs pursuant to A.R.S § 12-912.

RESPECTFULLY SUBMITTED this 9th day of July 2003.

RICHARD M. ROMLEY
MARICOPA COUNTY ATTORNEY

BY: 
DANIEL R. BRENDEN
Deputy County Attorney
Attorneys for Defendant

ORIGINAL of the foregoing FILED and copy HAND-DELIVERED this 9th day of July 2003 to:

Honorable Michael D. Jones
Judge of the Superior Court
Central Court Building, Suite 10A
201 W. Jefferson Street
Phoenix, Arizona 85003

and copy mailed to:

Scott M. McNair

[REDACTED]

Phoenix, Arizona [REDACTED]

Plaintiff Pro Se

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Bill Lapozna

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