

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALI ABOUBAKER,

Plaintiff,

Case No. 2:11-cv-13001

vs.

Honorable Denise Page Hood
U.S. District Judge

COUNTY OF WASHTENAW, DAVID
SHIRLEY, in his individual and official
capacity, and RICHARD FERRELL, in
his individual and official capacity,

Defendants.

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**DEFENDANTS WASHTENAW COUNTY, DAVID SHIRLEY
AND RICHARD FERRELL'S ANSWER TO PLAINTIFF'S
AMENDED COMPLAINT AND AFFIRMATIVE DEFENSES**

NOW COME Defendants Washtenaw County, David Shirley and Richard Ferrell,
by and through their attorneys Miller Johnson, and answer Plaintiff's Amended Complaint as
follows:

PARTIES AND JURISDICTION

1. Plaintiff Ali Aboubaker (“Plaintiff” or “Mr. Aboubaker”) is a resident of Ann Arbor, Michigan in the County of Washtenaw.

ANSWER: Neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

2. Mr. Aboubaker is an Arab American; he is an African American person of Tunisian origin. He is Muslim.

ANSWER: Neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

3. Defendant County of Washtenaw (“Defendant” or “Washtenaw County”) is a public agency with its principal place of business in Ann Arbor, Washtenaw County, Michigan.

ANSWER: Admitted as true.

4. Defendant David Shirley (“Defendant” or “Shirley”) was at all times relevant a manager of Mr. Aboubaker’s department. He is sued in his individual and official capacity.

ANSWER: It is admitted that David Shirley has been the Operations and Maintenance Manager from 2002 through the present. The remainder of the allegations contained within paragraph 4 of Plaintiff’s First Amended Complaint are neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

5. Defendant Richard Ferrell (“Defendant” or “Ferrell”) was at all times relevant Mr. Aboubaker’s supervisor. He is sued in his individual and official capacity.

ANSWER: It is admitted that since 2004, Richard Farrell (correct spelling) has been the Maintenance Supervisor for Facilities Management. The remainder of the allegations contained within paragraph 5 of Plaintiff's First Amended Complaint are neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

6. Mr. Aboubaker began working for the Washtenaw County on September 30, 1991 and was terminated on July 17, 2008.

ANSWER: Admitted as true.

7. The events described in this lawsuit occurred primarily in Ann Arbor, Washtenaw County, Michigan.

ANSWER: Neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

8. The jurisdiction of this court is invoked pursuant to 42 U.S.C §1981 and 42 U.S.C § 1983 and for federal questions pursuant to 28 U.S.C. §1331. The court has pendant jurisdiction over Mr. Aboubaker's claims under the Elliott-Larsen Civil Rights Act, MCL § 37.2201 et seq. ("ELCRA") since the Elliott-Larsen Civil Rights Act claims derive from the same set of facts.

ANSWER: The allegations contained in paragraph 8 call for a legal conclusion and thus no answer is required.

9. This Court has subject matter jurisdiction over federal claims pursuant to 28 U.S.C. § 1331 and over state claims pursuant to 28 U.S.C. § 1367.

ANSWER: The allegations contained in paragraph 9 call for a legal conclusion and thus no answer is required.

10. Venue is proper in the Eastern District of Michigan pursuant to 28 U.S.C. § 1391, as it is the district where the Plaintiff lives, Defendants conduct business, and the events giving rise to Plaintiff's claims took place.

ANSWER: The allegations contained in paragraph 10 call for a legal conclusion and thus no answer is required.

11. The amount in controversy exceeds \$75,000.

ANSWER: The allegations contained in paragraph 11 call for a legal conclusion and thus no answer is required.

12. Mr. Aboubaker made a complaint to the Equal Employment Opportunity Commission ("EEOC") on or about June 18, 2008. The EEOC found cause and turned the case over to the Department of Justice for possible litigation.

ANSWER: It is believed that Mr. Aboubaker signed a complaint to the Equal Employment Opportunity Commission dated July 31, 2008. The remainder of the allegations are neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

13. On October 21, 2011, Mr. Aboubaker was issued a right to sue letter from the United States Department of Justice; Mr. Aboubaker is therefore filing this amended complaint to assert additional claims under the Civil Rights Act of 1964, as Amended in 1991.

ANSWER: It is believed that Mr. Aboubaker received a right to sue letter from the United States Department of Justice on October 21, 2011. complaint to the Equal Employment Opportunity Commission dated July 31, 2008. The remainder of the allegations are neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

GENERAL ALLEGATIONS

Harassed and Discriminated Against as an Arab American

14. Mr. Aboubaker was an employee of Washtenaw County for 17 years.

ANSWER: Admitted as true.

15. Mr. Aboubaker held four advanced degrees, including a degree in mechanical engineering from a college in Tunisia, a degree in engineering graphics from Western Michigan University and two degrees from Kalamazoo Valley Community College in mechanical engineering and mechanical engineering technology. Additionally, he obtained approximately 79 credits from Washtenaw Community College.

ANSWER: Neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

16. Mr. Aboubaker originally was hired as a bus driver and advanced to the position of Maintenance Technician II.

ANSWER: It is admitted that Mr. Aboubaker was originally hired as a bus driver. It is denied that he advanced to the position of Maintenance Technician II.

17. After September 11, 2001, and continuing to the time of his termination, Mr. Aboubaker faced severe harassment from his supervisors and co-workers on the basis of his race, religion and national origin.

ANSWER: Denied as untrue.

18. William Howe ("Howe"), who was one of Mr. Aboubaker's supervisors off and on from 2000 until 2006, called him a "terrorist", "Osama", "Bin Laden" and "al quida" right to his face. His co-workers did this as well.

ANSWER: Denied upon information and belief.

19. Mr. Aboubaker pleaded with Howe to stop the harassment, but to no avail. He then pleaded with Shirley to stop the harassment and informed him that Howe called him a terrorist. Shirley failed to take any action.

ANSWER: Denied as untrue.

20. Ferrell, who became Mr. Aboubaker's supervisor for the last few years of his employment, continued the harassment and discriminatory treatment of him.

ANSWER: Denied as untrue.

21. Under Ferrell's supervision, co-workers called Mr. Aboubaker a terrorist and other derogatory names right to his face. In fact, at a leadership seminar, while Ferrell was his supervisor, a co-worker called him a terrorist in front of everyone and his co-workers laughed at him.

ANSWER: Denied as untrue.

22. Further, Mr. Aboubaker had reason to believe Ferrell and additional employees were calling him a terrorist and making other discriminatory comments behind his back.

ANSWER: Denied as untrue.

23. Mr. Aboubaker complained of the harassment from Howe and then Ferrell and his co-workers to Shirley at least two or three times a year from the time it started until his termination. Shirley failed to take any action.

ANSWER: Denied as untrue.

24. In 2005, Mr. Aboubaker was interviewed by Rebecca Curry in Human Resources, as part of an internal investigation after Shirley made a racial comment about another African American employee. Mr. Aboubaker informed her of the harassment and discriminatory

treatment he suffered from his supervisors and co-workers. Again, no action was taken in response to Mr. Aboubaker's complaints.

ANSWER: Neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

Mr. Aboubaker's Muslim Faith Was Not Accommodated

25. As a practicing Muslim, Mr. Aboubaker takes time during the middle of the day to pray and reserves Friday as his day of Sabbath.

ANSWER: Neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

26. Throughout his employment and continuing to the time of his termination, Mr. Aboubaker's supervisors interfered with his mid-day prayer time and Friday worship, even at times Mr. Aboubaker was off work.

ANSWER: Denied as untrue.

27. Mr. Aboubaker practiced his mid-day prayer during lunch for approximately 15 minutes. He saved his breaks and lunch time to use for his special worship on Fridays which took place from approximately 1:30 pm until 2:15 pm. However, Ferrell would schedule meetings at lunch and often would call Mr. Aboubaker on his cell phone with job assignments during that time.

ANSWER: Denied as untrue.

28. One time Ferrell scheduled such a meeting and Mr. Aboubaker told him he could not attend. Mr. Ferrell responded that he was providing lunch. Mr. Aboubaker again refused and reminded Mr. Ferrell that it was his prayer time. Mr. Ferrell got angry. Shortly afterwards, Mr. Aboubaker received an unfair write-up for something unrelated.

ANSWER: Denied as untrue.

29. In late 2005, the department went from a five-day to a four-day workweek. Everyone filled out a form requesting the weekday he or she preferred to take off. Mr. Aboubaker requested Friday. Nearly everyone else besides Mr. Aboubaker received Friday off.

ANSWER: It is admitted in late 2005 the department went from a five-day to a four-day work week. Schedules and preferences were determined based upon the terms of the Collective Bargaining Agreement. It is believed that Mr. Aboubaker requested a Monday through Thursday schedule. His request was granted.

30. After he complained, Mr. Aboubaker received Friday off. However, Ferrell continued to call him in on Friday mornings to request that he work.

ANSWER: It is admitted that Mr. Aboubaker received Friday off pursuant to his request. The remainder of the allegations contained within paragraph 30 of Plaintiff's First Amended Complaint are denied as untrue. In further answer, Mr. Aboubaker may be contacted on his day off because of emergent circumstances such as snow response protocol.

31. Despite repeatedly requesting that Mr. Aboubaker work during times that conflicted with practicing his religion, Mr. Aboubaker was routinely denied overtime opportunities.

ANSWER: Denied as untrue.

32. Throughout his employment and continuing to the time of his termination, Mr. Aboubaker's supervisors unfairly refused to offer him overtime before less senior employees.

ANSWER: Denied as untrue.

Mr. Aboubaker Is Twice Unfairly Demoted

33. In late 2005, after Mr. Aboubaker had advanced to the position of Maintenance Technician II, the job requirements were amended to include a written and hands-on skills test.

ANSWER: It is admitted that in late 2005, various job requirements were amended to include written and hands-on skills tests. It is denied that Mr. Aboubaker had advanced to the Maintenance Technician II position.

34. The written test was scheduled during Mr. Aboubaker's vacation without his knowledge. Shirley called him and demanded that he return for the test or he would lose his job.

ANSWER: Denied as untrue. In further answer, Mr. Aboubaker was given multiple opportunities to take the test.

35. Mr. Aboubaker rushed back to take the test. He requested large print and was denied.

ANSWER: It is denied that Mr. Aboubaker requested large print and was denied. The remainder of the allegations contained within paragraph 35 of Plaintiff's First Amended Complaint are neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

36. He later learned that another Maintenance Technician, a white male, was not required to return early from his vacation to take the test and that he was given an accommodation that allowed manager Matthew Higgins to read the test to him.

ANSWER: It is admitted that another Maintenance Technician requested that the test be read to him. This accommodation was granted. The remainder of the allegations

contained within paragraph 36 of Plaintiff's First Amended Complaint are denied as untrue.

37. At least two other Maintenance Technicians, also white males, refused to take the test and did not suffer any adverse employment action.

ANSWER: Denied as untrue.

38. Shortly thereafter, Mr. Aboubaker was required to take a hands-on test to qualify for the position of Maintenance Technician II, even though he had already obtained that title.

ANSWER: It is denied that Mr. Aboubaker had obtained the title of Maintenance Technician II. It is admitted that Mr. Aboubaker (along with other members of his department) were required to take a hands-on test to qualify for various positions including but not limited to Maintenance Technician II.

39. The hands-on tests was very subjective and others were given extra time or chances to correct their mistakes, especially Woods.

ANSWER: Denied as untrue.

40. However, Mr. Aboubaker did as well or better than others on the written and hands-on tests.

ANSWER: Denied as untrue.

41. On or about February 19, 2006, Shirley informed Mr. Aboubaker that he allegedly did not pass the written test. Mr. Shirley then demoted Mr. Aboubaker to Maintenance Technician I.

ANSWER: It is admitted that Mr. Shirley informed Mr. Aboubaker that he did not pass the total test for Maintenance Technician II. Thus, Mr. Aboubaker was designated as Maintenance Technician I.

42. Mr. Aboubaker requested to see his test, but that request was denied.

ANSWER: Denied as untrue. The test remained in the possession of the external agency contracted to preside over the test. It is admitted that Mr. Aboubaker was provided with the results.

43. After his demotion, Mr. Aboubaker complained to Shirley of the harassment and discriminatory treatment. Instead of addressing his concerns, Shirley told him it was only a matter of time before Mr. Aboubaker would be fired.

ANSWER: Denied as untrue.

44. In January 2008, Mr. Aboubaker was reassigned to the warehouse to work as a general laborer.

ANSWER: It is admitted that on or about January 2008 Mr. Aboubaker was assigned to work in the warehouse. He maintained the position and pay grade of Maintenance Technician I.

Mr. Aboubaker Is Again Passed Over for Promotion and Terminated

45. Throughout his employment and continuing to the time of his termination, Mr. Aboubaker applied for numerous positions over the years and was passed over for mostly white candidates with similar or less experience than Mr. Aboubaker.

ANSWER: Denied as untrue.

46. On or about June 3, 2008, Mr. Aboubaker applied for the position of Drain Inspector I, for which he was well qualified.

ANSWER: It is admitted that on or about April 30, 2008 Mr. Aboubaker applied for the position of Drain Inspector. The remainder of the allegations are denied as untrue.

47. Defendants hired someone with less experience, a white male outside of the bargaining union who worked as an intern for approximately 6 months to a year.

ANSWER: It is admitted that the successful applicant was from outside of the bargaining unit. The remainder of the allegations are denied.

48. On or about June 18, 2008, Mr. Aboubaker filed a complaint with the EEOC.

ANSWER: Admitted that on or about July 31, 2008, Mr. Aboubaker filed a complaint with the EEOC.

49. On July 17, 2008, Mr. Aboubaker's employer terminated him.

ANSWER: Admitted that on or about July 17, 2008, Mr. Aboubaker's employment was terminated.

50. Defendants retaliated against Mr. Aboubaker for complaining about his harassment and discriminatory treatment by unfairly disciplining him, failing to give him overtime before less senior employees, demoting him, failing to promote him, and then terminating him when he filed a complaint with the EEOC.

ANSWER: Denied as untrue.

**COUNT 1-42 USC § 1981 –
DISCRIMINATION ON THE BASIS OF RACE/NATIONAL ORIGIN**

51. Plaintiff hereby realleges and incorporates by reference paragraphs 1-50 above.

ANSWER: Defendants reassert and reincorporate by reference its answer to paragraphs 1 through 50 as though fully set forth above.

52. As an Arab American person who is African American and of Tunisian origin, Mr. Aboubaker is a protected person under 42 U.S.C § 1981.

ANSWER: The allegations contained in paragraph 52 call for a legal conclusion and thus no answer is required.

53. Defendants' demotions, failure to promote, and termination of Mr. Aboubaker were motivated in substantial part by the fact that Mr. Aboubaker is an Arab American, specifically an African American of Tunisian origin.

ANSWER: Denied as untrue.

54. Defendants' actions as described herein evince a policy or custom of discriminating against employees on the basis of race and/or national origin.

ANSWER: Denied as untrue.

55. As a direct and proximate result of Defendants' discriminatory conduct, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage and humiliation.

ANSWER: Denied as untrue.

**COUNT II - 42 USC § 1981 –
RETALIATION**

56. Plaintiff hereby realleges and incorporates by reference paragraphs 1-55 above.

ANSWER: Defendants reassert and reincorporate by reference its answers to paragraphs 1 through 55 as though fully set forth above.

57. Defendants retaliated against Mr. Aboubaker for complaining about his harassment and discriminatory treatment by unfairly disciplining him, failing to give him

overtime before less senior employees, demoting him, failing to promote him, and then terminating him after he filed a complaint with the EEOC.

ANSWER: Denied as untrue.

58. Defendants' actions as described herein evince a policy or custom of discriminating against employees on the basis of race and/or national origin.

ANSWER: Denied as untrue.

59. As a direct and proximate result of Defendants' discriminatory conduct, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage and humiliation.

ANSWER: Denied as untrue.

**COUNT III - 42 USC § 1983
VIOLATION OF EQUAL PROTECTION CLAUSE**

60. Plaintiff hereby realleges and incorporates by reference paragraphs 1-59 above.

ANSWER: Defendants reassert and reincorporate by reference its answers the paragraphs 1 through 59 as though fully set forth above.

61. Defendants' actions in demoting, refusing to promote and terminating Mr. Aboubaker on the basis of his race and national origin abridge his right to equal protection of the laws in violation of the Fourteenth Amendment to the U.S. Constitution.

ANSWER: Denied as untrue.

62. Furthermore, Defendants failed to respond to repeated complaints by Mr. Aboubaker about adverse treatment based on his race, national origin, and religion.

ANSWER: Denied as untrue.

63. These actions were taken intentionally and based on Mr. Aboubaker's race, national origin, and religion.

ANSWER: Denied as untrue.

64. In addition, the acts by the individual defendants, including the failure of management employees to respond to repeated complaints of discrimination by Mr. Aboubaker, evince a failure to train employees and a policy or custom of discriminating against employees on the basis of race, national origin, and religion.

ANSWER: Denied as untrue.

65. Defendant Washtenaw County had repeated opportunities to stop the discrimination against Mr. Aboubaker, but instead of responding in an appropriate manner, instead demoted and then terminated him based on his race, ethnicity, and national origin.

ANSWER: Denied as untrue.

66. As a direct and proximate result of Defendants' discriminatory conduct, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage and humiliation.

ANSWER: Denied as untrue.

**COUNT IV - 42 U.S.C. § 1983 –
FIRST AMENDMENT RETALIATION**

67. Plaintiff hereby realleges and incorporates by reference paragraphs 1-66 above.

ANSWER: Defendants reassert and reincorporate by reference its answers the paragraphs 1 through 66 as though fully set forth above

68. Mr. Aboubaker had a constitutional right, under the First Amendment, to speak on matters of public concern.

ANSWER: The allegations contained in paragraph 68 call for a legal conclusion and thus no answer is required.

69. Mr. Aboubaker exercised his First Amendment rights by speaking on a matter of public concern, namely, harassment and discrimination by county employees against another county employee on the basis of his race, national origin and religion.

ANSWER: Denied as untrue.

70. In response to these continued complaints, Defendants refused to promote, demoted, and eventually terminated Plaintiff's employment.

ANSWER: Denied as untrue.

71. In addition, the acts by the individual defendants evince a failure to train employees and a policy or custom of discriminating against employees on the basis of exercising their First Amendment rights.

ANSWER: Denied as untrue.

72. As a direct and proximate result of Defendants' discriminatory conduct, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage and humiliation.

ANSWER: Denied as untrue.

**COUNT V - ELLIOT-LARSEN CIVIL RIGHTS ACT –
DISCRIMINATION ON THE BASIS OF RACE/NATIONAL ORIGIN**

73. Plaintiff hereby realleges and incorporates by reference paragraphs 1-72 above.

ANSWER: Defendants reassert and reincorporate by reference its answers the paragraphs 1 through 72 as though fully set forth above

74. Mr. Aboubaker is an Arab American person who is African American and of Tunisian origin.

ANSWER: Neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

75. Defendant's demotions, failure to promote and termination of Mr. Aboubaker were motivated, in substantial part, by the fact that Mr. Aboubaker is an Arab American.

ANSWER: Denied as untrue.

76. As a direct and proximate result of Defendant's discriminatory conduct, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage and humiliation.

ANSWER: Denied as untrue.

**COUNT VI - ELLIOT-LARSEN CIVIL RIGHTS ACT –
DISCRIMINATION ON THE BASIS OF RELIGION**

77. Plaintiff hereby realleges and incorporates by reference paragraphs 1-76 above.

ANSWER: Defendants reassert and reincorporate by reference its answers the paragraphs 1 through 76 as though fully set forth above

78. Mr. Aboubaker is a practicing Muslim.

ANSWER: Neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

79. Defendant's demotions, failure to promote, and termination of Mr. Aboubaker were motivated, in substantial part, by the fact that Mr. Aboubaker is Muslim.

ANSWER: Denied as untrue.

80. As a direct and proximate result of Defendants' discriminatory conduct, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage and humiliation.

ANSWER: Denied as untrue.

**COUNT VII - ELLIOT-LARSEN CIVIL RIGHTS ACT
RETALIATION**

81. Plaintiff hereby realleges and incorporates by reference paragraphs 1-80 above.

ANSWER: Defendants reassert and reincorporate by reference its answers the paragraphs 1 through 80 as though fully set forth above

82. Defendants retaliated against Mr. Aboubaker for complaining about his harassment and discriminatory treatment by unfairly disciplining him, failing to give him overtime before less senior employees, demoting him, failing to promote him, and then terminating him after he filed a complaint with the EEOC.

ANSWER: Denied as untrue.

83. As a direct and proximate result of Defendants' discriminatory conduct, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage and humiliation.

ANSWER: Denied as untrue.

COUNT VIII - ELLIOT-LARSEN CIVIL RIGHTS ACT
HOSTILE WORK ENVIRONMENT

84. Plaintiff hereby realleges and incorporates by reference paragraphs 1-83 above.

ANSWER: Defendants reassert and reincorporate by reference its answers the paragraphs 1 through 83 as though fully set forth above.

85. Mr. Aboubaker is an Arab American person who is African American and of Tunisian origin.

ANSWER: Neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

86. Mr. Aboubaker is a practicing Muslim.

ANSWER: Neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

87. Mr. Aboubaker was subjected to unwelcome communication and conduct by Defendants on the basis of his protected status.

ANSWER: Denied as untrue.

88. The unwelcome conduct substantially interfered with Mr. Aboubaker's employment and created an intimidating, hostile and offensive work environment.

ANSWER: Denied as untrue.

89. As a direct and proximate result of Defendants' discriminatory conduct, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage and humiliation.

ANSWER: Denied as untrue.

**COUNT IX - TITLE VII
DISCRIMINATION ON THE BASIS OF RACE/NATIONAL ORIGIN
(As to Defendant County of Washtenaw Only)**

90. Plaintiff hereby realleges and incorporates by reference paragraphs 1-89 above.

ANSWER: Defendants reassert and reincorporate by reference its answers the paragraphs 1 through 89 as though fully set forth above.

91. Mr. Aboubaker is an Arab American person who is African American and of Tunisian origin.

ANSWER: Neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

92. Defendant's demotions, failure to promote and termination of Mr. Aboubaker were motivated, in substantial part, by the fact that Mr. Aboubaker is an Arab American.

ANSWER: Denied as untrue.

93. As a direct and proximate result of Defendant's discriminatory conduct, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage and humiliation.

ANSWER: Denied as untrue.

**COUNT X - TITLE VII
DISCRIMINATION ON THE BASIS OF RELIGION
(As to Defendant County of Washtenaw Only)**

94. Plaintiff hereby realleges and incorporates by reference paragraphs 1-93 above.

ANSWER: Defendants reassert and reincorporate by reference its answers the paragraphs 1 through 93 as though fully set forth above.

95. Mr. Aboubaker is a practicing Muslim.

ANSWER: Neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

96. Defendant's demotions, failure to promote, and termination of Mr. Aboubaker were motivated, in substantial part, by the fact that Mr. Aboubaker is Muslim.

ANSWER: Denied as untrue.

97. As a direct and proximate result of Defendants' discriminatory conduct, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage and humiliation.

ANSWER: Denied as untrue.

**COUNT XI - TITLE VII
RETALIATION
(As to Defendant County of Washtenaw Only)**

98. Plaintiff hereby realleges and incorporates by reference paragraphs 1-97 above.

ANSWER: Defendants reassert and reincorporate by reference its answers the paragraphs 1 through 97 as though fully set forth above.

99. Defendants retaliated against Mr. Aboubaker for complaining about his harassment and discriminatory treatment by unfairly disciplining him, failing to give him overtime before less senior employees, demoting him, failing to promote him, and then terminating him after he filed a complaint with the EEOC.

ANSWER: Denied as untrue.

100. As a direct and proximate result of Defendants' discriminatory conduct, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage and humiliation.

ANSWER: Denied as untrue.

**COUNT X II - TITLE VII
HOSTILE WORK ENVIRONMENT
(As to Defendant County of Washtenaw Only)**

101. Plaintiff hereby realleges and incorporates by reference paragraphs 1-100 above.

ANSWER: Defendants reassert and reincorporate by reference its answers the paragraphs 1 through 100 as though fully set forth above.

102. Mr. Aboubaker is an Arab American person who is African American and of Tunisian origin.

ANSWER: Neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

103. Mr. Aboubaker is a practicing Muslim.

ANSWER: Neither admitted nor denied for these Defendants are without sufficient information upon which to base an answer.

104. Mr. Aboubaker was subjected to unwelcome communication and conduct by Defendants on the basis of his protected status.

ANSWER: Denied as untrue.

105. The unwelcome conduct substantially interfered with Mr. Aboubaker's employment and created an intimidating, hostile and offensive work environment.

ANSWER: Denied as untrue.

106. As a direct and proximate result of Defendants' discriminatory conduct, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage and humiliation.

ANSWER: Denied as untrue.

WHEREFORE, Defendants request this cause of action be dismissed and they be awarded costs, interest and attorneys' fees as the court may tax.

Dated: January 23, 2012

/s/ Thomas R. Wurst
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AFFIRMATIVE DEFENSES

NOW COME Defendants Washtenaw County, David Shirley and Richard Ferrell, by and through their attorneys Miller Johnson, and state the following affirmative defenses:

1. All or portions of the Plaintiff's Complaint are barred by the applicable limitation of actions period.
2. All or portions of the Plaintiff's claim may be barred as he has failed to exhaust administrative remedies.

3. All or portions of Plaintiff's Complaint are barred as he has failed to exhaust internal grievance procedures.

4. As to one or all of the counts of Plaintiff's Complaint, Plaintiff has failed to state a cause of action upon which relief may be granted and Defendants are entitled to judgment as a matter of law.

5. Plaintiff was terminated for legitimate non-discriminatory reasons that were not pretextual in nature.

6. Plaintiff may have failed to mitigate his own damages.

7. Defendants reserve the right to assert additional affirmative or other defenses pending completion of discovery.

Dated: January 23, 2012

/s/ Thomas R. Wurst

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ALI ABOUBAKER,

Plaintiff,

Case No. 2:11-cv-13001

vs.

**Honorable Denise Page Hood
U.S. District Judge**

**WASHTENAW COUNTY, DAVID SHIRLEY,
in his individual and official capacity, and
RICHARD FERRELL, in his individual and
official capacity,**

Defendants.

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CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2012, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: David Blanchard, attorney for Plaintiff.

Dated: January 23, 2012

/s/ Thomas R. Wurst

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