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Attorneys for Defendant Brian Carter

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

Candi-Lee: Weeks a living woman,

Plaintiff,

v.

Bradley F. Johnson, Bill Dial, Kristi
Curtis, Kevin Conway, Shane Erickson,
Chase Garner, Chuck Stearns, Bridger
Kelch, John Muhfeld, Bill Hill,
Hillsbrothers Towing, Brian Carter
(aka) Moonlighting Bail Bonds,

Defendants.

CV16-161-M-DLC-JCL

DEFENDANT BRIAN CARTER'S
AMENDED ANSWER AND
JURY DEMAND

Defendant Brian Carter (aka) Moonlighting Bail Bonds, (“Defendant
Carter”) hereby responds to the Amended Complaint filed by Plaintiff as follows:

1. Defendant Carter states that no response is required as to the

statements set forth in Paragraph 1 of Plaintiff's Amended Complaint. To the extent that a response is required, Carter denies all such allegations.

2. Defendant Carter admits the allegations contained in Paragraph 2.

3. Defendant Carter admits that he is a resident of the State of Montana.

It is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 3, and therefore denies the same.

4. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 4, and therefore denies the same.

5. Upon knowledge and belief, Defendant Carter admits that John Muhlfield is the current Mayor of Whitefish, Montana.

6. Upon knowledge and belief, Defendant Carter admits that Bradley F. Johnson is currently a Municipal Court Judge in Whitefish, Montana.

7. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 7, and therefore denies the same.

8. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 8, and therefore denies the same.

9. Defendant Carter is without sufficient knowledge or information to

form a belief as to the truth of the allegations in Paragraph 9, and therefore denies the same.

10. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 10, and therefore denies the same.

11. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 11, and therefore denies the same.

12. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 12, and therefore denies the same.

13. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 13, and therefore denies the same.

14. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 14, and therefore denies the same.

15. Defendant Carter admits that he works out of Kalispell, Montana. Defendant Carter affirmatively states that he is a loaned employee of Compliance Monitoring Systems, LLC, working on behalf of Peregrine, LLC, doing business as

Moonlighting Bail Bonds. Peregrine, LLC, is a licensed bail bonding company under Montana law.

16. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 16, and therefore denies the same.

17. Defendant Carter denies that Brian Carter is acting in collusion with any individual or entity to deprive Plaintiff of any private property or constitutional rights.

18. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 18, and therefore denies the same.

19. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 19, and therefore denies the same.

20. Paragraph 20 contains purported statements of law for which no response is required. To the extent that these statements are inaccurate or incomplete, they are denied.

21. Defendant Carter denies the allegations contained in Paragraph 21.

22. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 22, and therefore denies

the same.

23. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 23, and therefore denies the same.

24. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 24, and therefore denies the same.

25. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 25, and therefore denies the same.

26. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 26, and therefore denies the same.

27. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 27, and therefore denies the same.

28. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 28, and therefore denies the same.

29. Defendant Carter is without sufficient knowledge or information to

form a belief as to the truth of the allegations in Paragraph 29, and therefore denies the same.

30. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 30, and therefore denies the same.

31. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 31, and therefore denies the same.

32. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 32, and therefore denies the same.

33. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 33, and therefore denies the same.

34. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 34, and therefore denies the same.

35. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 35, and therefore denies the same.

36. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 36, and therefore denies the same.

37. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 37, and therefore denies the same.

38. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 38, and therefore denies the same.

39. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 39, and therefore denies the same.

40. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 40, and therefore denies the same.

41. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 41, and therefore denies the same.

42. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 42, and therefore denies

the same.

43. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 43, and therefore denies the same.

44. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 44, and therefore denies the same.

45. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 45, and therefore denies the same.

46. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 46, and therefore denies the same.

47. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 47, and therefore denies the same.

48. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 48, and therefore denies the same.

49. Defendant Carter is without sufficient knowledge or information to

form a belief as to the truth of the allegations in Paragraph 49, and therefore denies the same.

50. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 50, and therefore denies the same.

51. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 51, and therefore denies the same.

52. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 52, and therefore denies the same.

53. Defendant Carter admits that he appeared in the courtroom on November 16, 2016, and informed Judge Johnson that he was there to bond Plaintiff.

54. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 54, and therefore denies the same.

55. Defendant Carter admits that he explained to Plaintiff her options, which included voluntarily entering into an agreement with Carter. Carter denies all remaining allegations contained in Paragraph 55.

56. Defendant Carter denies all allegations contained in Paragraph 56.

57. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 57, and therefore denies the same.

58. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 58, and therefore denies the same.

59. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 59, and therefore denies the same.

60. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 60, and therefore denies the same.

61. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 61, and therefore denies the same.

62. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 62, and therefore denies the same.

63. Defendant Carter is without sufficient knowledge or information to

form a belief as to the truth of the allegations in Paragraph 63, and therefore denies the same.

64. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 64, and therefore denies the same.

65. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 65, and therefore denies the same.

66. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 66, and therefore denies the same.

67. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 67, and therefore denies the same.

68. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 68, and therefore denies the same.

69. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 69, and therefore denies the same.

70. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 70, and therefore denies the same.

71. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 71, and therefore denies the same.

72. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 72, and therefore denies the same.

73. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 73, and therefore denies the same.

74. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 74, and therefore denies the same.

75. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 75, and therefore denies the same.

76. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 76, and therefore denies

the same.

77. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 77, and therefore denies the same.

78. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 78, and therefore denies the same.

79. Defendant Carter admits that he received a Notice stating that Plaintiff failed to appear on December 16, 2015, and the Judge Johnson called in the pledge of bond 003-10378486. Defendant Carter denies all other allegations contained in Paragraph 79.

80. Defendant Carter denies that he is in any way colluded with Municipal Judge Johnson. Carter denies all other allegations contained in Paragraph 80.

81. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 81, and therefore denies the same.

82. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 82, and therefore denies the same.

83. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 83, and therefore denies the same.

84. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 84, and therefore denies the same.

85. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 85, and therefore denies the same.

86. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 86, and therefore denies the same.

87. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 87, and therefore denies the same.

88. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 88, and therefore denies the same.

89. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 89, and therefore denies

the same.

90. Paragraph 90 contains purported statements of law for which no response is required. To the extent that these statements are inaccurate or incomplete, they are denied.

91. Paragraph 91 contains purported statements of law for which no response is required. To the extent that these statements are inaccurate or incomplete, they are denied.

92. Paragraph 92 contains purported statements of law for which no response is required. To the extent that these statements are inaccurate or incomplete, they are denied.

93. Paragraph 93 contains purported statements of law for which no response is required. To the extent that these statements are inaccurate or incomplete, they are denied.

94. Paragraph 94 contains purported statements of law for which no response is required. To the extent that these statements are inaccurate or incomplete, they are denied.

95. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 95, and therefore denies the same.

96. Defendant Carter is without sufficient knowledge or information to

form a belief as to the truth of the allegations in Paragraph 96, and therefore denies the same.

97. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 97, and therefore denies the same.

98. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 98, and therefore denies the same.

99. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 99, and therefore denies the same.

100. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 100, and therefore denies the same.

101. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 101, and therefore denies the same.

102. Defendant Carter denies he has imposed cruel and unusual punishment upon Plaintiff. Carter is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 102, and

therefore denies the same.

103. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 103, and therefore denies the same.

104. Defendant Carter denies all allegations contained in Paragraph 104.

105. Paragraph 105 contains a “reservation of powers” for which no response is required. To the extent that such a response is required, the allegations are denied.

106. Defendant Carter denies all allegations contained in Paragraph 106.

107. Paragraph 107 contains purported statements of law for which no response is required. To the extent that these statements are inaccurate or incomplete, they are denied.

108. Defendant Carter denies that he is a public minister, and denies that he denied Plaintiff any unalienable right.

109. Paragraph 109 contains allegations that appear to be directed at other defendants, and therefore no response is required. To the extent a response is required, Carter denies all allegations contained in Paragraph 109.

110. Paragraph 110 contains allegations that appear to be directed at other defendants, and therefore no response is required. To the extent a response is required, Carter denies all allegations contained in Paragraph 110.

111. Defendant Carter denies the allegations contained in Paragraph 111.

112. Paragraph 112 contains allegations that appear to be directed at other defendants, and therefore no response is required. To the extent a response is required, Carter denies all allegations contained in Paragraph 112.

113. Defendant Carter denies all allegations directed to him in Paragraph 113.

114. Defendant Carter denies all allegations directed to him in Paragraph 114.

115. Paragraph 115 contains allegations that appear to be directed at other defendants, and therefore no response is required. To the extent a response is required, Carter denies all allegations contained in Paragraph 115.

116. Paragraph 116 contains purported statements of law for which no response is required. To the extent that these statements are inaccurate or incomplete, they are denied.

117. Defendant Carter denies the allegations directed to him in Paragraph 117.

118. Defendant Carter denies the allegations directed to him in Paragraph 118.

119. Defendant Carter denies the allegations directed to him in Paragraph 119.

120. Defendant Carter denies the allegations directed to him in Paragraph 120.

121. Defendant Carter denies the allegations directed to him in Paragraph 121.

122. Defendant Carter denies the allegations directed to him in Paragraph 122.

123. Defendant Carter denies the allegations directed to him in Paragraph 123.

124. Defendant Carter denies the allegations directed to him in Paragraph 124.

125. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 125, and therefore denies the same.

126. Defendant Carter is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 126, and therefore denies the same.

127. Defendant Carter denies the allegations directed to him in Paragraph 127.

128. Paragraphs 128-140 appear to consist of a prayer for relief, jury demand, and other statements of procedure for which do not appear to be directed

to Defendant Carter and therefore no response is required. To the extent that these Paragraphs contain allegations that require a response from Carter, these allegations are denied.

129. Defendant Carter denies all other allegations not specifically admitted.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Amended Complaint fails to state a cause of action against Defendant Carter upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Brian Carter at all times acted in good faith on behalf of Defendant Carter.

THIRD AFFIRMATIVE DEFENSE

Defendant Carter denies each and every allegation not specifically admitted above.

FOURTH AFFIRMATIVE DEFENSE

Any conduct by Defendant Carter as alleged in the Amended Complaint was not the proximate cause of Plaintiff's claimed injuries and damages.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff failed to mitigate her alleged damages, if any.

SIXTH AFFIRMATIVE DEFENSE

Defendant Carter is not a state actor, and therefore cannot be held liable for claims of constitutional violations.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's damages, if any, were caused by persons or entities other than Defendant Carter and over whom it has no control.

EIGHTH AFFIRMATIVE DEFENSE

To the extent that Defendant Carter is considered to be a state actor, it has qualified immunity.

APPLICABILITY OF AFFIRMATIVE DEFENSES

At this time, the answering Defendant is uncertain what affirmative defenses may apply if this case goes to trial. Discovery, trial preparation, and the facts of the case may make some of the affirmative defenses applicable and thus they are raised in this Answer to avoid being waived. Defendant will dismiss any affirmative defenses at the pretrial conference that do not appear to be reasonably supported by the facts and/or law. The purpose of raising these affirmative defenses is not to create defenses where none exist. Instead, it is recognition that the pleadings, discovery, and trial preparation require an examination and evaluation of evolving facts and law. The decision maker, whether a judge or jury, should have available for consideration all defenses that may apply.

ADDITIONAL DEFENSES

Defendant Carter affirmatively alleges that he has not completed Discovery in this case and, therefore, reserves the right to amend his Answer to add additional affirmative defenses, allegations, and counterclaims once Discovery is completed.

WHEREFORE, having fully answered Plaintiff's Amended Complaint, Defendant Carter prays that Plaintiff take nothing by virtue of her Amended Complaint and that the action be dismissed, that Carter recover his costs of suit, and that the Court grant such further relief as it deems just.

DEMAND FOR JURY TRIAL

Defendant Carter demands a trial by jury on all issues so triable.

DATED this 6th day of April, 2017.

/s/ Robert C. Lukes

Attorneys for Defendant Brian Carter

