

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

| | | |
|--------------------------|---|-----------------------------------|
| AMY MENGAY |) | CASE NO. 1:07-CV-1541 |
| |) | |
| Plaintiff, |) | JUDGE DONALD C. NUGENT |
| |) | |
| v. |) | |
| |) | ANSWER OF DEFENDANTS |
| THE VILLAGE OF WOODMERE, |) | TO COMPLAINT OF AMY MENGAY |
| OHIO, et al. |) | |
| |) | (JURY DEMAND) |
| Defendants. |) | |

Defendants, for their Answer to Plaintiff's Complaint, admit, deny and aver as follows:

1. Deny the allegations contained in Paragraph 1.
2. Deny the allegations contained in Paragraph 2.
3. Deny the allegations contained in Paragraph 3.
4. Deny the allegations contained in Paragraph 4.
5. Admit that Plaintiff, Amy Mengay, is a white citizen of the United States, but deny the remaining allegations contained in Paragraph 5.
6. Deny the allegations contained in Paragraph 6.
7. Deny the allegations contained in Paragraph 7.
8. Deny the allegations contained in Paragraph 8.
9. Reaffirm their previous admissions and denials in response to Paragraph 9.

10. Admit that in 2002, Plaintiff Mengay was hired as police officer for the Village of Woodmere, but deny the remaining allegations contained in Paragraph 10.
11. Admit Defendant Village of Woodmere appointed Plaintiff as a probationary full-time police officer on December 18, 2002, but deny the remaining allegation contained in Paragraph 11.
12. Admit that Plaintiff was kept as a probationary police officer, which status was supported by the Chief of Police, but deny the remaining allegations contained in Paragraph 12.
13. Deny the allegations contained in Paragraph 13.
14. Deny the allegations contained in Paragraph 14.
15. Admit Defendant Broadie served as both Mayor and Safety Director of Defendant Village of Woodmere, but deny the remaining allegations contained in Paragraph 15.
16. Admit that on or about July 20, 2003, Plaintiff was involved in a traffic accident, but deny the remaining allegations contained in Paragraph 16.
17. Deny the allegations contained in Paragraph 17.
18. Deny the allegations contained in Paragraph 18.
19. Admit that on or about February 7, 2004, Plaintiff was involved in a traffic accident, but deny the remaining allegations contained in Paragraph 19.
20. Deny the allegations contained in Paragraph 20.
21. Admit the allegations contained in Paragraph 21.
22. Admit Defendant Broadie is the City's Safety Director and was superior to Police Chief Lamont Lockhart, but the remaining allegations contained in Paragraph 22.
23. Deny the allegations contained in Paragraph 23.
24. Deny the allegations contained in Paragraph 24.

25. Deny the allegations contained in Paragraph 25.
26. Deny the allegations contained in Paragraph 26.
27. Admit that Woodmere black officer Masai Brown was not fired, but deny remaining allegations contained in Paragraph 27.
28. Deny the allegations contained in Paragraph 28.
29. Admit Defendant Broadie promoted Officer Brown, but deny the remaining allegations contained in Paragraph 29.
30. Deny the allegations contained in Paragraph 30.
31. Deny the allegations contained in Paragraph 31.
32. Deny the allegations contained in Paragraph 32.
33. Deny the allegations contained in Paragraph 33.
34. Deny the allegations contained in Paragraph 34.
35. Deny the allegations contained in Paragraph 35.
36. Reaffirm their previous admissions and denials in response to Paragraph 36.
37. Deny the allegations contained in Paragraph 37.
38. Deny the allegations contained in Paragraph 38.
39. Deny the allegations contained in Paragraph 39.
40. Deny the allegations contained in Paragraph 40.

AFFIRMATIVE DEFENSES

1. Judicial and/or quasi-judicial immunity for the individually named Council members.
2. Qualified immunity.
3. Individuals cannot be liable under Title VII.
4. *Res judicata*, claim/issue preclusion, and merger bar.

5. Statute of limitation operates to bar some or all of the claims.
6. Both Ellis and Mengay were probationary employees who did not have a property right to continued employment as neither had satisfactorily completed their probationary periods.
7. The claims are subject to the “same actor” defense in that the employees were appointed and discharged by the same person.
8. To demonstrate that the alleged comparators were similarly-situated in all material respects, the Plaintiff must demonstrate, *inter alia*, that the same decisionmaker made the employment decision, but also that the employment of the alleged comparators was probationary in nature.
9. There were legitimate non-discriminatory reasons for the termination of Ellis and Mengay.
10. Plaintiff has failed to state a facially neutral employment practice or allege a pattern of discriminatory decisionmaking necessary for a disparate impact claim, but rather only individual decisions which are unique to each employee’s circumstances.
11. Failure to mitigate.
12. Failure to plead the inadequacy of state remedies.
13. Failure to exhaust state remedies.

Respectf

ully submitted,

s/ John D. Latchney

John
TO

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(330)
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D. Latchney (0046539)
MINO & LATCHNEY, LLC, LPA
803 E. Washington St., Suite 200
na, Ohio 44256
723-4656
723-5445 Fax
Attorney for Defendants

JURY DEMAND

Defendants hereby demand a jury trial.

s/ John D. Latchney

John
TO

D. Latchney (0046539)
MINO & LATCHNEY, LLC, LPA

CERTIFICATE OF SERVICE

A copy of the foregoing Answer of Defendants was served upon counsel for Plaintiff via the Court's ECF System on this 10th day of September 2007.

s/ John D. Latchney

John
TO

D. Latchney (0046539)
MINO & LATCHNEY, LLC, LPA