

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS , NORTHERN DIVISION**

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
APR 29 2024
TAMMY H. DOWNS, CLERK
By: *Munk* *Beall*
DEP CLERK

STEPHEN WARD

PLAINTIFF

V. Case No. 3:22-CV-00250-LPR

HAROLD COPENHAVER, et al.

DEFENDANTS

PLAINTIFF’S PROTECTIVE REPLY TO ANSWER FROM

DEFENDANTS HAROLD COPENHAVER, CAROL DUNCAN, LARRY

ROGERS AND JEFFREY MOORE

Comes now Plaintiff Stephen Ward in his human capacity in this court of record in his PLAINTIFF’S PROTECTIVE REPLY TO ANSWER FROM DEFENDANTS HAROLD COPENHAVER, CAROL DUNCAN, LARRY ROGERS AND JEFFREY MOORE

. In this Motion Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore will be referred to and collectively Defendants.

1. On April 19th, 2024 , Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore through their Attorney filed an ANSWER Docket

2. The ANSWER in all respects was NONRESPONSIVE and failed to meet the minimum pleading requirement required by FRCP rule 8b which states:

(b) DEFENSES; ADMISSIONS AND DENIALS.

(1) In General. In responding to a pleading, a party must:

(A) state in short and plain terms its defenses to each claim asserted against it; and

(B) admit or deny the allegations asserted against it by an opposing party.

(2) Denials—Responding to the Substance. A denial must fairly respond to the substance of the allegation.

(3) General and Specific Denials. A party that intends in good faith to deny all the allegations of a pleading—including the jurisdictional grounds—may do so by a general denial. A party that does not intend to deny all the allegations must either specifically deny designated allegations or generally deny all except those specifically admitted.

(4) Denying Part of an Allegation. A party that intends in good faith to deny only part of an allegation must admit the part that is true and deny the rest.

(5) Lacking Knowledge or Information. A party that lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has the effect of a denial.

(6) Effect of Failing to Deny. An allegation—other than one relating to the amount of damages—is admitted if a responsive pleading is required and the allegation is not denied. If a responsive pleading is not required, an allegation is considered denied or avoided.

3. In their ANSWER DOCKET #33 there are 4 different Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore with different levels of participation who should have 4 different ANSWERS which differ dramatically based on their participation level.
4. In Paragraph 11 from Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore through their Attorney “. The Defendants deny, generally, paragraphs 19-223”without any attempt or regard for the FRCP rule 8 (b) (2) *Denials—Responding to the Substance. A denial must fairly respond to the substance of the allegation.*
5. In Paragraph 11 from Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore through their Attorney “. The Defendants deny,

generally, paragraphs 19-223”without any attempt or regard for the FRCP rule 8 (d) (e) CONSTRUING PLEADINGS.” Pleadings must be construed so as to do justice” as they have not ANSWERED in a way that would allow the Judge, Jury or any party to construe their ANSWER DOCKET #33 to any justice at all.

6. As a result of Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore through their Attorney failure to fairly respond to the Substance of the allegation, The Plaintiff has not been given fair notice on the intended nature or reason for denial.
7. In a separate numbering system with the heading styled as “AFFIRMATIVE DEFENSES” in Paragraphs 1-8 Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore through their Attorney laid out some crafty misleading AFFIRMATIVE Defenses which also fail to meet the very basic requirements contained in FRCP rule 8 (a) (2) (3) which states
 - (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and
 - (3) a demand for the relief sought, which may include relief in the alternative or different types of relief.

8. In a separate numbering system with the heading styled as "AFFIRMATIVE DEFENSES" in Paragraphs 1-8 Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore through their Attorney law out some crafty misleading AFFIRMATIVE Defenses which also fail to meet the very basic requirements contained in FRCP rule 8 (c) as they list an AFFIRMATIVE DEFENSE with no indication or support evidence as to why they believe they are entitled to the specific AFFIRMATIVE DEFENSE.
9. Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore through their Attorney in their AFFIRMATIVE DEFENSE Section paragraph #1 they claim that the Plaintiff has failed to state a claim upon which relief may be granted even though the First Amended Complaint DOCKET # 10 has already been screened and Judge Rudofsky found that the Plaintiff had stated several claims upon which relief could be granted and he specified that to all the Defendants in his ORDER DOCKET # 14 dated 03/25/2024
10. Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore through their Attorney in their AFFIRMATIVE DEFENSE Section paragraph #2 they lay claim to ALL applicable statutes of limitations

without putting the slightest bit of effort to actually name a single one that they may be eligible for.

11. Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore through their Attorney in their AFFIRMATIVE DEFENSE Section paragraph #3 they claim that they are untouchable, unreachable and can do whatever they want to anyone they want at any time they want and they can get away with anything because they are ENTITLED “pursuant to Ark. Code Ann. § 21-9-301 to the extent any state tort or violation of the Arkansas Civil Rights Act is alleged.” without addressing the most basic question of if they covered by liability insurance or not, because the Arkansas Appellate court stated that they would not be have any immunity if they had liability insurance . (Houston, B.; 63CV-20-522; 11-9-23; Wood, R.). Do Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore have liability insurance because if they do , then they are ignoring the terms of Ark. Code Ann. § 21-9-301 States in pertinent part :

(a) It is declared to be the public policy of the State of Arkansas that all counties, municipal corporations, school districts, special improvement districts, and all other political subdivisions of the state and any of their boards, commissions, agencies, authorities, or other governing bodies shall

be immune from liability and from suit for damages except to the extent that they may be covered by liability insurance..

12. In Benton School District v. Greer, 2023 Ark. 160 ,The Arkansas Supreme Court held that Ark. Code Ann. § 21-9-301 does not apply to a federal claim under 42 U.S.C. § 1983, but it does apply to claims brought under the Arkansas Civil Rights Act. so as a result Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore DO NOT HAVE QUALIFIED OR ANY IMMUNITY AT ALL.

13. Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore through their Attorney in their AFFIRMATIVE DEFENSE Section paragraph #4 they claim that they are untouchable, unreachable and can do whatever they want to anyone they want at any time they want and they can get away with anything because they are ENTITLED as they claim” avail themselves of all applicable state and federal immunities, available in any capacity, including, but not limited to, statutory, absolute, qualified, sovereign, good faith, and quasi-judicial immunity” which must be nice. These same people harass the people of Jonesboro and prosecute them for anything from seatbelt tickets to litter and harass people like me for panhandling giving pony rides which is lawful (reed v town of Gilbert). But they claim for themselves IMMUNITY. The Plaintiff , The Arkansas

Supreme Court and The United States Supreme Court all say the same thing. NO IMMUNITY for Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore so they will just have to be held accountable like everyone else , Unless Judge Rudofsky and the Jury overlooks ALL the Evidence against them.

14. Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore through their Attorney in their AFFIRMATIVE DEFENSE Section paragraph #5 make one of my favorite claims yet. They said “, to the extent Plaintiff sustained any damages, the damages were a direct and proximate result of Plaintiff’s own conduct.” as if shame on the Plaintiff for exercising his first Amendment right of the United States Constitution to Panhandle as written in the United States Constitution and re affirmed by the United States Constitution in Reed V the Town of Gilbert. And the Plaintiff responds to their statement “ to the extent Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore sustain any damages, the damages are a direct and proximate result of Defendant’s own conduct.” HOW THAT BE?

15. Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore through their Attorney in their AFFIRMATIVE DEFENSE Section paragraph #6 claim “ . Plaintiff’s claims are barred by accord and

satisfaction and/or settlement and release” which is simply fraud upon the court. Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore know there is not any contract or agreement at all. Nor have they indicated where the contract is , who was involved, the content or nor have they provided a copy as required by FRCP concerning evidence and contracts. .

16. Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore through their Attorney in their AFFIRMATIVE DEFENSE Section paragraph #7 claim “ .Plaintiff has failed to exhaust his administrative remedies” which is simply fraud upon the court. Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore know that Plaintiff Stephen Ward has no duty to ANY administrative remedy, before bringing them to Federal Court. Nor have they offered any information at all concerning whatever fantasy administrative remedy they are talking about. They simply expect us to simply so ok we believe your word is golden as you enjoy all your immunity from accountability for anything done. The amount of nonsense is preventing them from putting up a good legal argument as they are too busy trying to create imaginary contracts , duties for the Plaintiff and hide behind immunities that DO NOT exists for them, I grew out of stuff like imaginary land when I was 10 or 12, so I cannot

properly understand their type of wisdom, so I am going to simply deal in contracts, agreements, common sense, the facts, the codes and the duties that are ACTUALLY known to exist. I would enjoy sticking to reality if the Defendants and their Attorney's don't mind.

17. Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore through their Attorney also stated in Paragraph #8 that "Defendants plead affirmatively all defenses available to them under Rule 8(c) of the Arkansas or Federal Rules of Civil Procedure, as applicable." And again they plead EVERYTHING so that they do not have to meet the minimum requirements required under FRCP and as The Plaintiff has clearly pointed out in Paragraphs 1-17 which he restated herein as if it were herein. So I guess Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore and their Attorney should have no problem with the Plaintiff stating "The Plaintiff pleads affirmatively ALL things available to him under the Arkansas or Federal Rules of Civil Procedure, as applicable."

18. The facts and evidence show that Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore never provided an ANSWER at all. Their Attorney never asked asked them as an individual to go down the Plaintiff's First Amended Complaint (Docket #10) and ADMIT ,DENY or answer truthfully any paragraph at all. Their ANSWER should have been

provided in 4 separate ANSWERS and Answered truthfully especially in light of The U.S. Supreme Court's decision in Bell Atlantic Corp.

v. Twombly retired the widely recognized federal pleading standard that requires a fair notice of the nature of their pleading and constructed to allow the other parties to prepare for trial.

19. Affirmative defenses may be challenged by motions to strike them from the pleadings under FRCP Rule 12(f).

20. Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore have never provided an ANSWER that meets the minimum requirements and as a result the Plaintiff's Motion to strike should be GRANTED and Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore should be barred from further pleading as a matter of law.

Wherefore, for the reason stated above in paragraphs 1-20 the The Plaintiff asks that his Motion to Strike Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore Motion to Dismiss be Granted and Defendants Harold Copenhaver's, Carol Duncan's, Larry Rogers's and Jeffrey Moore's ANSWER be removed from the record. The Plaintiff asks this court to STRIKE any future pleadings from Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore because

Defendants Harold Copenhaver, Carol Duncan, Larry Rogers and Jeffrey Moore have failed to provide an ANSWER and or PROTECTIVE ANSWER and as a result have waived their right to further plead as the Plaintiff is entitled to Summary Judgement Respectively submitted.

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CERTIFICATE OF SERVICE , On 04/23/2024 The Plaintiff Stephen Ward has served his

MOTION TO STRIKE ANSWER FROM DEFENDANTS HAROLD COPENHAVER, CAROL DUNCAN, LARRY ROGERS AND JEFFREY MOORE & SUPPORT BRIEF & PLAINTIFF'S PROTECTIVE REPLY TO

**ANSWER FROM DEFENDANTS HAROLD COPENHAVER, CAROL
DUNCAN, LARRY ROGERS AND JEFFREY MOORE**

**MOTION TO STRIKE Y RANDALL'S MOTION TO DISMISS & BRIEF IN
SUPPORT. PLAINTIFF'S PROTECTIVE RESPONSE TO KIMBERLY
RANDALL'S MOTION TO DISMISS**

**MOTION TO STRIKE LISA TREVATHAN'S MOTION TO DISMISS &
BRIEF IN SUPPORT. PLAINTIFF'S PROTECTIVE RESPONSE TO LISA
TREVATHAN'S MOTION TO DISMISS**


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