

HONORABLE RONALD B. LEIGHTON

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and Jenae Gomes

IN UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

ERIC DODGE,

Plaintiff,

vs.

EVERGREEN SCHOOL DISTRICT  
NO. 114, a public corporation;  
CAROLINE GARRETT, an individual;  
and JANA E GOMES, an individual,

Defendants.

Cause No. 3:20-cv-05224-RBL

DEFENDANTS EVERGREEN  
PUBLIC SCHOOLS' AND  
JENAE GOMES' ANSWER TO  
PLAINTIFF'S COMPLAINT  
FOR DAMAGES

COME NOW Defendants EVERGREEN PUBLIC SCHOOLS ("EPS") and  
JENAE GOMES, by and through their attorneys of record of the law firm Evans,  
Craven & Lackie, P.S., and enter this Answer to Plaintiff's Complaint as follows:

///

///

DEFENDANTS EVERGREEN SD AND JENAE  
GOMES ANSWER TO COMPLAINT - page 1

*Evans, Craven & Lackie, P.S.*  
818 W. Riverside, Suite 250  
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## INTRODUCTION

1  
2 1. The allegations contained in Paragraph No. 1 of Plaintiff's Complaint  
3  
4 consist of legal conclusions to which no response is deemed necessary. To the  
5  
6 extent a response is deemed necessary, these answering Defendants deny all  
7  
8 allegations of liability.

9 2. The allegations contained in Paragraph No. 2 of Plaintiff's Complaint  
10  
11 consist of legal conclusions to which no response is deemed necessary. To the  
12  
13 extent a response is deemed necessary, these answering Defendants deny all  
14  
15 allegations of liability.

16 3. These answering Defendants admit that Plaintiff was a teacher  
17  
18 employed by a public school district in Vancouver. These answering Defendants  
19  
20 admit that Plaintiff was returning to work at Wy'East Middle School following an  
21  
22 absence to rehabilitate from a stroke. These answering Defendants are without  
23  
24 sufficient information to admit or deny the remaining allegations contained in  
25  
26 Paragraph No. 3 of Plaintiff's Complaint and therefore deny the same.

27 4. These answering Defendants deny the allegations contained in  
28  
29 Paragraph No. 4 of Plaintiff's Complaint.

30 5. These answering Defendants admit that Plaintiff filed a complaint  
alleging discrimination and retaliation with the EPS Human Resources

1 Department. These answering Defendants admit that EPS's third party risk  
2 administrator performed an investigation into Plaintiff's allegations and  
3 complaint. These answering Defendants deny the remaining allegations contained  
4 in Paragraph No. 5 of Plaintiff's Complaint.  
5

6  
7 6. These answering Defendants admit that Plaintiff appealed EPS  
8 Human Resources' decision to the EPS school board. Defendants admit that the  
9 EPS school board heard Plaintiff's appeal, and denied said appeal. These  
10 answering Defendants deny the remaining allegations contained in Paragraph No.  
11 6 of Plaintiff's Complaint.  
12

13  
14 7. These answering Defendants deny the allegations contained in  
15 Paragraph No. 7 as it pertains to the answering Defendants.  
16

17 **PARTIES**  
18

19 8. Admit.

20 9. Admit.  
21

22 10. These answering Defendants admit the first sentence of Paragraph 10  
23 of Plaintiff's Complaint. The second sentence is a legal conclusion to which no  
24 response is deemed necessary. To the extent a response is deemed necessary, the  
25 answering Defendants deny all allegations of liability.  
26  
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1 11. These answering Defendants admit the first sentence of Paragraph 11  
2 of Plaintiff's Complaint. The second sentence is a legal conclusion to which no  
3 response is deemed necessary. To the extent a response is deemed necessary, the  
4 answering Defendants deny all allegations of liability.  
5

6  
7 **JURISDICTION AND VENUE**

8 12. Admit.  
9

10 13. These answering Defendants admit that the alleged acts identified in  
11 Plaintiff's Complaint occurred within the geographic environs of the Western  
12 District of Washington and that venue is proper in this Court. Unless specifically  
13 admitted herein, these answering Defendants deny the veracity of those alleged  
14 "facts, events, and transactions," and likewise deny all allegations of liability  
15 arising from the same.  
16  
17

18  
19 14. These answering Defendants admit that the alleged acts identified in  
20 Plaintiff's Complaint occurred in Clark County. Unless specifically admitted  
21 herein, these answering Defendants deny the veracity of those alleged "facts,  
22 events, and transactions," and likewise deny all allegations of liability arising from  
23 the same.  
24  
25

26 15. Admit.  
27  
28

**FACTUAL ALLEGATIONS**

1  
2 16. Admit.

3  
4 17. These answering Defendants are without sufficient information to  
5 admit or deny the allegations contained in Paragraph No. 17 of Plaintiff's  
6 Complaint and therefore deny the same.  
7

8 18. These answering Defendants admit that on or about October 23,  
9 2017, while working at EPS's Mountain View High School, Plaintiff suffered a  
10 stroke. These answering Defendants are without sufficient information to admit or  
11 deny the remaining allegations contained in Paragraph No. 18 of Plaintiff's  
12 Complaint and therefore deny the same.  
13  
14

15 19. These answering Defendants admit that Plaintiff took a leave of  
16 absence for the remainder of the 2017/18 school year. These answering  
17 Defendants are without sufficient information to admit or deny the remaining  
18 allegations contained in Paragraph No. 19 of Plaintiff's Complaint and therefore  
19 deny the same.  
20  
21

22 20. These answering Defendants admit that during the 2018-19 school  
23 year, Plaintiff returned to EPS and worked as a substitute teacher. These answering  
24 Defendants are without sufficient information to admit or deny the remaining  
25  
26  
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28

1 allegations contained in Paragraph No. 20 of Plaintiff's Complaint and therefore  
2 deny the same.

3  
4 21. These answering Defendants admit that Plaintiff was assigned to  
5 teach science at Wy'East Middle School for the 2019/20 school year. These  
6 answering Defendants are without sufficient information to admit or deny the  
7 remaining allegations contained in Paragraph No. 21 of Plaintiff's Complaint and  
8 therefore deny the same.  
9

10  
11 22. These answering Defendants are without sufficient information to  
12 admit or deny the allegations contained in Paragraph No. 22 of Plaintiff's  
13 Complaint and therefore deny the same.  
14

15  
16 23. These answering Defendants are without sufficient information to  
17 admit or deny the allegations contained in Paragraph No. 23 of Plaintiff's  
18 Complaint and therefore deny the same.  
19

20  
21 24. These answering Defendants are without sufficient information to  
22 admit or deny the allegations contained in Paragraph No. 24 of Plaintiff's  
23 Complaint and therefore deny the same.  
24

25  
26 25. These answering Defendants are without sufficient information to  
27 admit or deny the allegations contained in Paragraph No. 25 of Plaintiff's  
28 Complaint and therefore deny the same.

1           26. These answering Defendants are without sufficient information to  
2 admit or deny the allegations contained in Paragraph No. 26 of Plaintiff's  
3 Complaint and therefore deny the same.  
4

5           27. Admit.  
6

7           28. These answering Defendants are without sufficient information to  
8 admit or deny the allegations contained in Paragraph No. 28 of Plaintiff's  
9 Complaint and therefore deny the same.  
10

11           29. These answering Defendants admit that according to the  
12 investigation performed by the third party risk administrator, Principal Garrett  
13 reported that after the training session, she approached Plaintiff to discuss the  
14 following concerns that had been expressed to her by Plaintiff's colleagues: (1)  
15 that Plaintiff's wearing and display of the hat caused disruption to the learning  
16 environment; (2) that colleagues were worried, upset, threatened and intimidated  
17 by Plaintiff's wearing and display of the hat; and (3) that colleagues were  
18 concerned about potential harm to students that may be caused by Plaintiff wearing  
19 the hat.  
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25           30. These answering Defendants deny the allegations contained in  
26 Paragraph 30 of Plaintiff's Complaint.  
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1           31. These answering Defendants admit that according to the investigation  
2 performed by the third party risk administrator, Principal Garrett reported that after  
3 the training session, she approached Plaintiff to discuss the following concerns  
4 that had been expressed to her by Plaintiff's colleagues: (1) that Plaintiff's wearing  
5 and display of the hat caused disruption to the learning environment; (2) that  
6 colleagues were worried, upset, threatened and intimidated by Plaintiff's wearing  
7 and display of the hat; and (3) that colleagues were concerned about potential harm  
8 to students that may be caused by Plaintiff wearing the hat. These answering  
9 Defendants are without sufficient information to admit or deny the remaining  
10 allegations contained in Paragraph 31 of Plaintiff's Complaint and therefore deny  
11 the same.  
12

13           32. These answering Defendants are without sufficient information to  
14 admit or deny the allegations contained in Paragraph No. 32 of Plaintiff's  
15 Complaint and therefore deny the same.  
16

17           33. These answering Defendants are without sufficient information to  
18 admit or deny the allegations contained in Paragraph No. 33 of Plaintiff's  
19 Complaint and therefore deny the same.  
20

21           34. Regarding the first sentence in Paragraph No. 34 of Plaintiff's  
22 Complaint, these answering Defendants are without sufficient information to  
23



1 admit or deny the allegations and therefore deny the same. These answering  
2 Defendants admit that there was a subsequent investigation conducted by EPS's  
3 third party risk administrator into Plaintiff's complaint and allegations. The report  
4 of the investigation speaks for itself. These answering Defendants deny all  
5 remaining allegations, if any, contained in Paragraph No. 34 of Plaintiff's  
6 Complaint.  
7  
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9  
10 35. These answering Defendants deny the allegations contained in  
11 Paragraph 35 of Plaintiff's Complaint.  
12

13 36. These answering Defendants are without sufficient information to  
14 admit or deny the allegations contained in Paragraph No. 36 of Plaintiff's  
15 Complaint and therefore deny the same.  
16

17 37. These answering Defendants deny the allegations contained in  
18 Paragraph 37 of Plaintiff's Complaint.  
19

20 38. These answering Defendants deny the allegations contained in  
21 Paragraph 38 of Plaintiff's Complaint.  
22

23 39. These answering Defendants are without sufficient information to  
24 admit or deny the allegations contained in Paragraph No. 39 of Plaintiff's  
25 Complaint and therefore deny the same.  
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1           40. These answering Defendants are without sufficient information to  
2 admit or deny the allegations contained in Paragraph No. 40 of Plaintiff's  
3 Complaint and therefore deny the same.  
4

5           41. Admit.  
6

7           42. These answering Defendants admit that Jenae Gomes is the Chief  
8 Human Resource Officer at EPS and as such, she manages complaints submitted  
9 to human resources. These answering Defendants deny the remaining allegations  
10 contained in Paragraph No. 42 of Plaintiff's Complaint.  
11

12           43. These answering Defendants admit that Jenae Gomes had  
13 communicated with Garrett regarding issues with Plaintiff before he had filed a  
14 complaint with human resources. These answering Defendants deny the remaining  
15 allegations contained in Paragraph No. 43 of Plaintiff's Complaint.  
16

17           44. Deny.  
18

19           45. These answering Defendants admit that Jenae Gomes requested  
20 Plaintiff's medical records in response to Plaintiff's leave requests. These  
21 answering Defendants deny the remaining allegations contained in Paragraph No.  
22 45 of Plaintiff's Complaint.  
23

24           46. Deny.  
25  
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1 47. These answering Defendants admit that Jenae Gomes informed  
2 Plaintiff that EPS's third party risk administrator would be conducting an  
3 investigation regarding the allegations contained in his human resources  
4 complaint. These answering Defendants deny the remaining allegations contained  
5 in Paragraph No. 47 of Plaintiff's Complaint.  
6  
7

8 48. In answer to Paragraph No. 48 of Plaintiff's Complaint, these  
9 answering Defendants admit that on October 1, 2019, Jenae Gomes sent Plaintiff  
10 a written summary report. The report speaks for itself. These answering  
11 Defendants deny the remaining allegations contained in Paragraph No. 48 of  
12 Plaintiff's Complaint.  
13  
14

15 49. These answering Defendants admit that Plaintiff met with Jenae  
16 Gomes and requested she reconsider her decision regarding paid leave. These  
17 answering Defendants further admit that Plaintiff pursued an appeal to the EPS  
18 school board. These answering Defendants are without sufficient information to  
19 admit or deny the remaining allegations contained in Paragraph No. 49 of  
20 Plaintiff's Complaint and therefore deny the same.  
21  
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25 50. These answering Defendants admit the school board's appeal hearing  
26 was scheduled for and held on November 14, 2019. These answering Defendants  
27  
28

1 deny the remaining allegations contained in Paragraph No. 50 of Plaintiff's  
2 Complaint.

3  
4 51. These answering Defendants admit that on November 14, 2019, the  
5 EPS school board denied Plaintiff's appeal. The decision by the EPS school board  
6 speaks for itself. These answering Defendants deny the remaining allegations  
7 contained in Paragraph No. 51 of Plaintiff's Complaint.  
8

9  
10 52. These answering Defendants admit they provided the five page report  
11 to Plaintiff on November 8, 2019. These answering Defendants admit they  
12 provided the 18 page report to Plaintiff on December 2, 2019. These answering  
13 Defendants admit the reports were in EPS's possession by September 23, 2019.  
14 These answering Defendants deny all remaining allegations contained in  
15 Paragraph no. 52 of Plaintiff's Complaint.  
16  
17  
18

19 53. These answering Defendants admit that Jenae Gomes provided a  
20 written summary report to Plaintiff on October 1, 2019. The written summary  
21 report from Jenae Gomes speaks for itself. These answering Defendants deny the  
22 remaining allegations contained in Paragraph No. 53 of Plaintiff's Complaint.  
23  
24

25 54. These answering Defendants admit that Jenae Gomes provided a  
26 written summary report to Plaintiff on October 1, 2019. The written summary  
27  
28

1 report from Jenae Gomes speaks for itself. These answering Defendants deny the  
2 remaining allegations contained in Paragraph No. 54 of Plaintiff’s Complaint.

3  
4 55. These answering Defendants admit that Jenae Gomes provided a  
5 written summary report to Plaintiff on October 1, 2019. The written summary  
6 report from Jenae Gomes speaks for itself. The investigator’s reports provided to  
7 Plaintiff on November 8, 2019 and December 2, 2019 speak for themselves. These  
8 answering Defendants deny the remaining allegations contained in Paragraph No.  
9 55 of Plaintiff’s Complaint.

10 56. These answering Defendants admit that investigator’s reports speak  
11 for themselves. The answering Defendants deny the remaining allegations  
12 contained in Paragraph No. 56 of Plaintiff’s Complaint.

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17 **FIRST CLAIM FOR RELIEF**

18 **(Civil Rights; 42 U.S.C § 1983)**

19  
20 **(Against All Defendants)**

21  
22 57. No response to Paragraph No. 57 of Plaintiff’s Complaint is deemed  
23 necessary, as it does not set forth facts or allegations that can be admitted or  
24 denied. To the extent a response is deemed necessary, these answering Defendants  
25 deny all allegations of liability.  
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1 58. Paragraph No. 58 of Plaintiff's Complaint consists of legal  
2 conclusions to which no response is deemed necessary. To the extent a response  
3 is deemed necessary, these answering Defendants deny all allegations of liability.  
4

5 59. The answering Defendants deny the allegations contained in  
6 Paragraph No. 59 of Plaintiff's Complaint.  
7

8 60. The answering Defendants deny the allegations contained in  
9 Paragraph No. 60 of Plaintiff's Complaint.  
10

11 61. The answering Defendants deny the allegations contained in  
12 Paragraph No. 61 of Plaintiff's Complaint.  
13

14 62. These answering Defendants are without sufficient information to  
15 admit or deny the allegations contained in Paragraph No. 62 of Plaintiff's  
16 Complaint and therefore deny the same. These answering Defendants deny any  
17 liability for Plaintiff's claimed injuries and damages.  
18

19 63. These answering Defendants deny the allegations contained in  
20 Paragraph No. 63 of Plaintiff's Complaint.  
21  
22

23 **SECOND CLAIM FOR RELIEF**

24 **(Conspiracy to Violate Civil Rights; 42 U.S.C § 1985)**

25 **(Against All Defendants)**  
26  
27  
28

1 64. No response to Paragraph No. 64 of Plaintiff's Complaint is deemed  
2 necessary, as it does not set forth facts or allegations that can be admitted or  
3 denied. To the extent a response is deemed necessary, these answering Defendants  
4 deny all allegations of liability.  
5

6  
7 65. These answering Defendants deny the allegations contained in  
8 Paragraph No. 65 of Plaintiff's Complaint.  
9

10 66. These answering Defendants deny the allegations contained in  
11 Paragraph No. 66 of Plaintiff's Complaint.  
12

13 **THIRD CLAIM FOR RELIEF**

14 **(Neglect to Prevent Violation of Civil Rights; 42 U.S.C. § 1986)**

15 **(Against All Defendants)**

16  
17 67. No response to Paragraph No. 67 of Plaintiff's Complaint is deemed  
18 necessary, as it does not set forth facts or allegations that can be admitted or  
19 denied. To the extent a response is deemed necessary, these answering Defendants  
20 deny all allegations of liability.  
21

22  
23 68. Paragraph No. 68 of Plaintiff's Complaint consists of legal  
24 conclusions to which no response is deemed necessary. To the extent a response  
25 is deemed necessary, these answering Defendants deny all allegations of liability.  
26  
27  
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1 69. The answering Defendants deny the allegations contained in  
2 Paragraph No. 69 of Plaintiff's Complaint.

3  
4 70. The answering Defendants deny the allegations contained in  
5 Paragraph No. 70 of Plaintiff's Complaint.

6  
7 **FOURTH CLAIM FOR RELIEF**

8 **(Civil Rights; Washington State Constitution)**

9  
10 **(Against All Defendants)**

11 71. No response to Paragraph No. 71 of Plaintiff's Complaint is deemed  
12 necessary, as it does not set forth facts or allegations that can be admitted or  
13 denied. To the extent a response is deemed necessary, these answering Defendants  
14 deny all allegations of liability.

15  
16  
17 72. These answering Defendants deny the allegations contained in  
18 Paragraph No. 72 of Plaintiff's Complaint.

19  
20 73. The answering Defendants deny the allegations contained in  
21 Paragraph No. 73 of Plaintiff's Complaint.

22  
23 74. The answering Defendants deny the allegations contained in  
24 Paragraph No. 74 of Plaintiff's Complaint.

25  
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28 ///



**FIFTH CLAIM FOR RELIEF**

**(State Civil Service Law Violation; RCW 41.06.250)**

**(Against All Defendants)**

75. No response to Paragraph No. 75 of Plaintiff’s Complaint is deemed necessary, as it does not set forth facts or allegations that can be admitted or denied. To the extent a response is deemed necessary, these answering Defendants deny all allegations of liability.

76. Paragraph No. 76 of Plaintiff’s Complaint consists of legal conclusions to which no response is deemed necessary. To the extent a response is deemed necessary, these answering Defendants deny all allegations of liability.

77. These answering Defendants deny the allegations contained in Paragraph No. 77 of Plaintiff’s Complaint.

78. The answering Defendants deny the allegations contained in Paragraph No. 78 of Plaintiff’s.

**SIXTH CLAIM FOR RELIEF**

**(OUTRAGE)**

**(Against All Defendants)**

79. No response to Paragraph No. 79 of Plaintiff’s Complaint is deemed necessary, as it does not set forth facts or allegations that can be admitted or

1 denied. To the extent a response is deemed necessary, these answering Defendants  
2 deny all allegations of liability.

3  
4 80. The answering Defendants deny the allegations contained in  
5 Paragraph No. 80 of Plaintiff’s Complaint.  
6

7 81. The answering Defendants deny the allegations contained in  
8 Paragraph No. 81 of Plaintiff’s Complaint.  
9

10 **SEVENTH CLAIM FOR RELIEF**

11 **(Defamation)**

12 **(Against Defendant Garrett Only)**

13  
14 82. No response to Paragraph No. 82 of Plaintiff’s Complaint is deemed  
15 necessary, as it does not set forth facts or allegations that can be admitted or  
16 denied. To the extent a response is deemed necessary, these answering Defendants  
17 deny all allegations of liability.  
18

19  
20 83. The allegations contained in Paragraph No. 83 of Plaintiff’s  
21 Complaint are not directed at these answering Defendants and as such, no response  
22 is necessary. To the extent a response is deemed necessary, these answering  
23 Defendants deny all allegations of liability.  
24

25  
26 84. The allegations contained in Paragraph No. 84 of Plaintiff’s  
27 Complaint are not directed at these answering Defendants and as such, no response  
28

1 is necessary. To the extent a response is deemed necessary, these answering  
2 Defendants deny all allegations of liability.

3  
4 85. The allegations contained in Paragraph No. 85 of Plaintiff's  
5 Complaint are not directed at these answering Defendants and as such, no response  
6 is necessary. To the extent a response is deemed necessary, these answering  
7 Defendants deny all allegations of liability.  
8

9  
10 **PRAYER FOR RELIEF**

11 These answering Defendants deny that Plaintiff is entitled to any relief in  
12 this matter. These answering Defendants further deny any and all allegations of  
13 liability, as well as the existence, nature and extent of Plaintiff's claimed injuries  
14 and damages.  
15

16  
17 To the extent any allegation contained in Plaintiff's Complaint was not  
18 specifically admitted above, or a lack of knowledge is claimed, it is denied.  
19

20 **JURY DEMAND**

21  
22 In accordance with F.R.C.P. 38 and pursuant to the Seventh Amendment,  
23 Defendant hereby demands this matter appear before a jury.  
24  
25  
26  
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**AFFIRMATIVE DEFENSES**

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2  
3 Evergreen Public Schools and Jenae Gomes hereby assert the  
4 following affirmative defenses:  
5

6 1. Plaintiff's Complaint fails to state a claim upon which relief may be  
7 granted  
8

9 2. Discovery may reveal that Plaintiff failed to mitigate his damages, if  
10 any.  
11

12 3. Discovery may reveal that Plaintiff's damages, if any, may have been  
13 caused by others.  
14

15 4. Plaintiff's claims are legally frivolous.

16 5. Plaintiff failed to exhaust available administrative remedies.  
17

18 6. Defendant Jenae Gomes at all times acted in good faith and her  
19 actions were objectively and subjectively reasonable, entitling her to qualified  
20 immunity.  
21

22 7. The answering Defendants reserve the right to amend their Answer  
23 to include additional affirmative defenses and/or counterclaims that may more  
24 fully develop and/or any counterclaim to third party action that may be  
25 appropriate.  
26  
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1 WHEREFORE, having fully answered Plaintiff's Complaint, these  
2 answering Defendants respectfully request that the Court dismiss Plaintiff's  
3  
4 Complaint with prejudice and award these answering Defendants their costs and  
5 attorneys' fees incurred in defending against these claims.  
6

7 DATED this 7<sup>th</sup> day of April, 2020.

8 EVANS, CRAVEN & LACKIE, P.S.  
9

10 By: s/ Michael E. McFarland, Jr.  
11 MICHAEL E. McFARLAND, JR., #23000  
12 Attorneys for Defendants EPS and Gomes  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 7, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

**COUNSEL FOR PLAINTIFF**

Michael John Estok

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**CO-COUNSEL FOR PLAINTIFF**

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s/ Michael E. McFarland, Jr.  
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