

information to admit or deny the remaining allegations contained in paragraph 2 regarding Plaintiff's beliefs.

3. Defendants admit only that Plaintiff was employed by the Defendant City of Quitman, and that his employment was terminated. Defendants deny that they took any retaliatory action against Plaintiff as alleged in paragraph 3 of Plaintiff's Original Complaint. Defendants are without sufficient knowledge or information to admit or deny the remaining allegations stated in paragraph 3 of Plaintiff's Original Complaint regarding actions taken by the Wood County District Attorney or the Wood County grand jury.

4. Defendants admit that Plaintiff brings this action pursuant to 42 U.S.C. §1983, but deny that Defendants engaged in any conduct which violated or deprived Plaintiff of his constitutional rights under the First and Fourteenth Amendments to the United States Constitution as alleged in paragraph 4 of Plaintiff's Original Complaint.

5. Defendants admit that the Plaintiff has attempted to state a claim under 42 U.S.C. §1985(2), but deny that any of the Quitman Defendants engaged in conduct which violated any provision of this statute as alleged in paragraph 5 of Plaintiff's Original Complaint.

6. Defendants deny that they engaged in a conspiracy to violate Plaintiff's First Amendment rights as alleged in paragraph 6 of Plaintiff's Original Complaint.

7. Defendants deny that Plaintiff is entitled to the recovery of compensatory damages, punitive damages, or attorneys' fees pursuant to 42 U.S.C. §1988 as alleged in paragraph 7 of Plaintiff's Original Complaint.

II.
JURISDICTION

8. Defendants admit that this Court has federal question jurisdiction pursuant to 42 U.S.C. §1983, but deny that they violated any of Plaintiff's constitutional or statutory rights under 42 U.S.C. §1983.

9. Defendants admit that this Court has pendent jurisdiction over Plaintiff's state law claim for conspiracy as alleged in paragraph 9 of Plaintiff's Original Complaint, but deny any liability for such claim.

III.
PARTIES

10. Defendants admit that Plaintiff is a citizen of the United States as alleged in paragraph 10 of Plaintiff's Original Complaint.

11. Defendants admit that the City of Quitman, Texas is a municipality located within the boundaries of the Eastern District of Texas as alleged in paragraph 11 of Plaintiff's Original Complaint.

12. Defendants deny that the City of Quitman Police Department is an entity located in the Eastern District of Texas as alleged in paragraph 12 of Plaintiff's Original Complaint. It is well established that a municipal police department such as the City of Quitman Police Department is not a separate jural entity capable of suing and being sued. Defendants further move the Court to enter an order dismissing Plaintiff's claims against the Defendant City of Quitman Police Department.

13. Defendants are without sufficient knowledge or information to admit or deny the allegations stated in paragraph 13 of Plaintiff's Original Complaint regarding Sheriff Tom Castloo.

14. Defendants admit that Mayor David Dobbs was the Mayor of the City of Quitman at all times relevant to the events which form the basis of this lawsuit. Defendants deny that David Dobbs was the chief “policymaking official” as alleged in paragraph 14 of Plaintiff’s Original Complaint.

15. Defendants are without sufficient knowledge or information to admit or deny the allegations contained in paragraph 15 of Plaintiff’s Original Complaint regarding Defendant James Wheeler.

16. Defendants are without sufficient knowledge or information to admit or deny the allegations contained in paragraph 16 of Plaintiff’s Original Complaint regarding Defendant Jeffrey Fletcher.

17. Defendants admit the allegations contained in paragraph 17 of Plaintiff’s Original Complaint regarding Defendant Wood County, Texas.

IV.

FACTUAL BACKGROUND

18. Defendants admit only that Plaintiff was employed by the City of Quitman as a police captain and served as an instructor at the Kilgore Police Academy as alleged in paragraph 18 of Plaintiff’s Original Complaint.

19. Defendants are without sufficient knowledge or information to admit or deny the allegations stated in paragraph 19 of Plaintiff’s Original Complaint regarding what Plaintiff “believes.”

20. Defendants admit the allegations contained in paragraph 20 of Plaintiff’s Original Complaint.

21. Defendants are without sufficient knowledge or information to admit or deny the allegations contained in paragraph 21 of Plaintiff’s Original Complaint.

22. Defendants deny the allegations contained in paragraph 22 of Plaintiff's Original Complaint.

23. Defendants are without sufficient knowledge or information to admit or deny the allegations contained in paragraph 23 of Plaintiff's Original Complaint.

24. Defendants are without sufficient knowledge or information to admit or deny the allegations contained in paragraph 24 of Plaintiff's Original Complaint.

25. Defendants admit the allegations contained in paragraph 25 of Plaintiff's Original Complaint.

26. Defendants are without sufficient knowledge or information to admit or deny the allegations in paragraph 26 of Plaintiff's Original Complaint regarding Plaintiff's beliefs, prior conversations, and/or experience.

27. Defendants are without sufficient knowledge or information to admit or deny the allegations in paragraph 27 of Plaintiff's Original Complaint.

28. Defendants admit that Plaintiff signed an affidavit as alleged, but deny that Plaintiff did not sign in his official capacity as an employee of the City of Quitman as alleged in paragraph 28 of Plaintiff's Original Complaint.

29. Defendants are without sufficient knowledge or information to admit or deny the allegations in paragraph 29 of Plaintiff's Original Complaint.

30. Defendants admit the allegations contained in paragraph 30 of Plaintiff's Original Complaint.

31. Defendants are without sufficient knowledge or information to admit or deny the allegations in paragraph 31 of Plaintiff's Original Complaint.

32. Defendants are without sufficient knowledge or information to admit or deny the allegations in paragraph 32 of Plaintiff's Original Complaint.

33. Defendants deny the allegations contained in paragraph 33 of Plaintiff's Original Complaint.

34. Defendants deny the allegations contained in paragraph 34 of Plaintiff's Original Complaint.

35. Defendants deny the allegations contained in paragraph 35 of Plaintiff's Original Complaint.

36. Defendants deny the allegations contained in paragraph 36 of Plaintiff's Original Complaint.

37. Defendants admit only that Plaintiff was placed on administrative leave pending an internal investigation as alleged in paragraph 37 of Plaintiff's Original Complaint.

38. Defendants admit the allegations contained in paragraph 38 of Plaintiff's Original Complaint concerning the contents of the City memorandum.. Defendants deny that any action taken to place Plaintiff on paid administrative leave was done in retaliation for his affidavit testimony as alleged by Plaintiff.

39. Defendants admit that Plaintiff's employment with Defendant City of Quitman was terminated as alleged. Defendants deny that the termination of Plaintiff's employment was in any way related to any article published by the *Wood County Monitor*, or any other media source as alleged.

40. Defendants admit the allegations contained in paragraph 40 of Plaintiff's Original Complaint.

41. Defendants admit the allegations contained in paragraph 41 of Plaintiff's Original Complaint concerning the contents of the memo advising Plaintiff of the termination of employment.

42. Defendants deny the allegation that the termination of Plaintiff's employment was a pretext for retaliation for exercising his right to speak publicly, or for any other type of retaliation. Moreover, Defendants generally deny all of the allegations of retaliation stated in paragraph 42 of Plaintiff's Original Complaint, and elsewhere in Plaintiff's Original Complaint. Defendants aver that Plaintiff's employment was terminated in response to his violation of Police Department policy, and not in retaliation for his affidavit testimony.

43. Defendants admit that this is an accurate restatement of the contents of the minutes of the Quitman City Council meeting of June 22, 2017 as alleged. Defendants deny that any comments made during the general session of this, or any other City Council meeting, are evidence of a retaliation campaign against Bevill as alleged in the preface to paragraph 43 of Plaintiff's Original Complaint, or elsewhere in Plaintiff's pleadings.

44. Defendants admit that an arrest warrant was issued for Plaintiff as alleged, however, are without sufficient knowledge or information to admit or deny the remaining allegations in paragraph 44 of Plaintiff's Original Complaint.

45. Defendants have not reviewed the specific conditions of Plaintiff's bond which was set while criminal charges were pending, and thus, Defendants are without sufficient or information to admit or deny the allegations contained in paragraph 45 of Plaintiff's Original Complaint.

46. Paragraph 46 of Plaintiff's Original Complaint requires no response from these Defendants since it contains no allegations, but only a statement of public record.

47. Defendants are without sufficient knowledge or information to admit or deny the allegations in paragraph 47 of Plaintiff's Original Complaint.

48. Defendants deny the allegations contained in paragraph 48 of Plaintiff's Original Complaint.

49. Defendants cannot admit or deny the allegations in paragraph 49 of Plaintiff's Original Complaint.

50. Defendants are without sufficient knowledge or information to admit or deny the details of Plaintiff's employment history following the termination of his employment with Defendant City of Quitman. Defendants deny that Plaintiff's alleged inability to find work in a law enforcement capacity, or damage to his professional reputation were the result of retribution or retaliation inflicted against him by Defendants as alleged in paragraph 50 of Plaintiff's Original Complaint.

51. Defendants admit that the District Attorney resigned his office in 2018 as alleged. Defendants are without sufficient knowledge or information to admit or deny the remaining allegations stated in paragraph 51 of Plaintiff's Original Complaint.

52. Paragraph 52 of Plaintiff's Original Complaint requires no response from these Defendants since it contains no allegations, but only a statement of public record.

V.

DEFENDANTS' RESPONSES TO PLAINTIFF'S CAUSES OF ACTION

A. First Cause of Action - §1983: Bevill's Termination Against Quitman Defendants.

52.(sic)¹ Defendants incorporate by reference their responses to paragraphs 1 – 51 of Plaintiff's Original Complaint stated above as if the same were set forth at length herein. Defendants admit

¹ Defendants' Original Answer follows the numbering as it appears in Plaintiff's Original Petition to this point.

the allegations contained in paragraph 52 of Plaintiff's Original Complaint as to themselves only. Defendants are without sufficient knowledge or information to admit or deny the allegations as to the Wood County Defendants.

53. Defendants deny the allegations contained in paragraph 53 of Plaintiff's Original Complaint.

54. Defendants deny the allegations contained in paragraph 54 of Plaintiff's Original Complaint.

55. Defendants deny the allegations contained in paragraph 55 of Plaintiff's Original Complaint.

56. Defendants deny the allegations contained in paragraph 56 of Plaintiff's Original Complaint.

B. Second Cause of Action - §1983: Violation Against Wood County and Sheriff Tom Castloo.

57. Defendants incorporate by reference their responses to paragraphs 1 – 56 of Plaintiff's Original Complaint stated above as if the same were set forth at length herein. Defendants admit the allegations contained in paragraph 57 of Plaintiff's Original Complaint as to themselves only. Defendants are without sufficient knowledge or information to admit or deny the allegations as to the Wood County Defendants.

58. Defendants are without sufficient knowledge or information to admit or deny the allegations concerning the internal policies, practices, structure, or other allegations contained in paragraph 58 of Plaintiff's Original Complaint.

59. Defendants are without sufficient knowledge or information to admit or deny the allegations concerning the internal policies, practices, structure, or other allegations contained in paragraph 59 of Plaintiff's Original Complaint.

60. Defendants are without sufficient knowledge or information to admit or deny the allegations concerning the conduct of Defendant Castloo alleged in paragraph 60 of Plaintiff's Original Complaint.

61. Defendants are without sufficient knowledge or information to admit or deny the allegations concerning the conduct of Defendant Castloo alleged in paragraph 61 of Plaintiff's Original Complaint.

C. Third Cause of Action - §1985 (Conspiracy: Retaliation) Against All Defendants.

62. Defendants incorporate by way reference their responses to paragraphs 1 – 61 of Plaintiff's Original Complaint stated above, as if the same were set forth at length herein. Further, Defendants deny that they engaged in any conduct which constituted conspiracy, retaliation or any other action which violated 42 U.S.C. §1985(2) as alleged. Defendants further deny that they are individually liable, jointly or severally liable, or separately liable in any way for the violations and conduct alleged in paragraph 62 of Plaintiff's Original Complaint.

63. Defendants cannot admit or deny the allegations in paragraph 63 of Plaintiff's Original Complaint.

64. Defendants deny the allegations in paragraph 64 of Plaintiff's Original Complaint.

65. Defendants deny the allegations in paragraph 65 of Plaintiff's Original Complaint.

66. Defendants deny the allegations in paragraph 66 of Plaintiff's Original Complaint.

67. Defendants deny the allegations in paragraph 67 of Plaintiff's Original Complaint.

68. Defendants deny the allegations in paragraph 68 of Plaintiff's Original Complaint.

69. Defendants deny the allegations in paragraph 69 of Plaintiff's Original Complaint.

D. Fourth Cause of Action - §1985 Claims Against Wood County Defendants.

70. Defendants incorporate by way reference their responses to paragraphs 1 – 69 of Plaintiff’s Original Complaint stated above, as if the same were set forth at length herein. Defendants further deny the allegations stated in paragraph 70 of Plaintiff’s Original Complaint which allege that Defendants are “jointly and severally liable and for which each Defendant is separately liable.”

71. Defendants deny the allegations in paragraph 71 of Plaintiff’s Original Complaint.

72. Defendants are without sufficient knowledge or information to admit or deny the allegations in paragraph 72 of Plaintiff’s Original Complaint.

73. Defendants are without sufficient knowledge or information to admit or deny the allegations in paragraph 73 of Plaintiff’s Original Complaint.

74. Defendants are without sufficient knowledge or information to admit or deny the allegations in paragraph 74 of Plaintiff’s Original Complaint.

75. Defendants deny the allegations in paragraph 75 of Plaintiff’s Original Complaint.

76. Defendants deny the allegations in paragraph 76 of Plaintiff’s Original Complaint.

77. Defendants deny the allegations in paragraph 77 of Plaintiff’s Original Complaint.

78. Defendants deny the allegations in paragraph 78 of Plaintiff’s Original Complaint.

E. Fifth Cause of Action – Conspiracy to Commit §1983 Violation of Plaintiff’s First Amendment Rights Arising out of Termination of Plaintiff’s Employment.

79. Defendants incorporate by reference their responses to paragraphs 1 – 78 of Plaintiff’s Original Complaint stated above as if the same were set forth at length herein. Defendants admit the allegations contained in paragraph 78 of Plaintiff’s Original Complaint as to themselves only.

Defendants are without sufficient knowledge or information to admit or deny the allegations as to the Wood County Defendants.

80. Defendants deny the allegations stated in paragraph 80 of Plaintiff's Original Complaint. Pleading further, Defendants aver that they engaged in no conduct which could be regarded as a conspiracy to deprive Plaintiff of his First Amendment rights or any other rights conferred upon him by the United States Constitution, or otherwise conspired to retaliate against the Plaintiff for his exercise of any constitutional right as alleged in paragraph 80 of Plaintiff's Original Complaint.

81. Defendants deny the allegations in paragraph 81 of Plaintiff's Original Complaint.

82. Defendants deny the allegations in paragraph 82 of Plaintiff's Original Complaint.

83. Defendants deny the allegations in paragraph 83 of Plaintiff's Original Complaint.

84. Defendants deny that Defendant Dobbs is and was at all times relevant hereto, the "chief policymaking official of the City of Quitman, Texas" as alleged in paragraph 84 of Plaintiff's Original Complaint, and further deny the remaining allegations in paragraph 84.

85. Defendants deny the allegations in paragraph 85 of Plaintiff's Original Complaint.

VI.

DAMAGES

86. Defendants deny that they, either individually or acting in concert, engaged in any conduct which proximately caused any damages alleged by the Plaintiff. Defendants further deny that Plaintiff is entitled to the recovery of any of the damages and/or compensation sought in paragraph 86 of Plaintiff's Original Complaint.

87. Defendants deny the allegations in paragraph 87 of Plaintiff's Original Complaint.

VII.

JURY DEMAND

88. Defendants demand a trial by jury on all issues so triable.
89. Defendants reserve the right to plead further.

VIII.

RESPONSE TO PRAYER

90. Defendants deny that Plaintiff is entitled to the recovery of any of the compensation, relief and/or damages sought in Section VIII subparts a – g or otherwise sought in Plaintiff's Original Complaint.
91. All allegations contained in Plaintiff's Original Complaint, not otherwise admitted herein, are denied by Defendants at this time.

IX.

DEFENSES

92. Plaintiff's claims against Defendants are barred because Plaintiff cannot establish, and Defendants deny, that they violated Plaintiff's constitutional rights or any federally or state protected rights.
93. Defendant Dobbs asserts that he is entitled to the defenses of qualified immunity and official immunity. At all times relevant to Plaintiff's claims, Defendant was performing discretionary duties, in good faith and within the scope of his employment as a City official for the City of Quitman, Texas. Defendant did not violate any established constitutional or statutory rights of Plaintiff to which a reasonable City official would have known under the circumstances presented to Defendant.
94. Defendant Dobbs pleads that all state law claims against Defendant are barred as a matter of law under §101.106(e) of the Texas Tort Claims Act.

95. Defendants deny that they are liable to Plaintiff for exemplary and/or punitive damages and, in the alternative, Defendants invoke the provisions of Tex. Civ. Prac. & Rem. Code §41.007, *et seq.*

96. Defendants invoke the substantive and procedural safeguards afforded to a defendant who is sued for exemplary damages, as provided by Tex. Civ. Prac. & Rem. Code Ch. 41, including: the heightened standards of recovery of exemplary damages as set forth in §41.003; the requirement that prejudgment interest not be assessed or recovered on exemplary damages, as set forth in §41.007; the limitation on amount of recovery of exemplary damages, as set forth in §41.008; the requirement for a bifurcated trial as set forth in §41.009; the considerations and evidence which the trier of fact must take into account in making an award of exemplary damages, as set forth in §41.010 and 41.011; the jury instructions with respect to an award of exemplary damages, as set forth in §41.012; and the requirement for heightened scrutiny in connection with the judicial review of an award of exemplary damages, as set forth in §41.013.

97. Defendants deny that they, in any way, acted with malice, consciously disregarded and/or were deliberately indifferent to the rights of Plaintiff.

98. Defendants invoke the limitations and the liability set forth in Tex. Civ. Prac. & Rem. Code §108.001, *et seq.*

99. Defendant City is entitled to sovereign immunity from the allegations contained in Plaintiff's Original Complaint in accordance with the standards set forth in *Monell* and its progeny.²

100. Defendant City is entitled to the defense of governmental immunity for Plaintiff's state law claims.

² *Monell v. Dept. of Social Services of City of New York*, 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed. 2d 611 (1978).

101. Defendant City denies that this Court, or any court, has subject-matter jurisdiction over Plaintiff's state law claims for the reason that Plaintiff has never alleged a waiver of sovereign immunity from suit as to any such state law claims.

102. Defendant City asserts that no unconstitutional policy, custom, or practice of the Defendant City was the moving force behind the alleged violation of any constitutional or statutory right of the Plaintiff, either collectively or individually.

103. Defendants further assert all other defenses and immunities contained in Tex. Civ. Prac. & Rem. Code §101.001, *et seq.*, to the extent that any such defenses and immunities are applicable. These defenses and immunities include but are not limited to, 101.021, 101.023, 101.024, 101.055, 101.056, 101.057, 101,101, and 101.106.

104. Defendants assert that Plaintiff has failed to state a claim for which relief can be granted, and assert the provisions of Fed. R. Civ. Pro. 12(b)(6).

105. Defendant City seeks recovery of all costs and attorneys' fees pursuant to 42 U.S.C. §1988.

106. Defendants reserve the right to plead further, or to amend these pleadings, in accordance with the Federal Rules of Civil Procedure and the Court's Docket Control Order.

X.

PRAYER FOR RELIEF

107. **WHEREFORE, PREMISES CONSIDERED,** Defendants respectfully pray that Plaintiff's Original Complaint be dismissed; that Plaintiff take nothing by way of his Complaint; that Defendants recover their costs of court and attorneys' fees from Plaintiff and be discharged without penalty; and for such other and further relief to which they may show themselves to be justly entitled.

Respectfully submitted,

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/s/ Lance Vincent

By: _____
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ATTORNEY FOR DEFENDANTS
THE CITY OF QUITMAN, TEXAS and the
QUITMAN DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2019, the foregoing document has been served upon all counsel of record, via electronic delivery.

/s/ Lance Vincent

Lance Vincent

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