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Attorneys for Defendant
REDWOOD EMPIRE FOOD BANK

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SONOMA**

LISA CANNON,

Plaintiff,

v.

REDWOOD EMPIRE FOOD BANK; and
DOES 1 to 5, Inclusive,

Defendants.

Case No.: 24CV01482

**DEFENDANT REDWOOD EMPIRE
FOOD BANK'S ANSWER TO
PLAINTIFF'S COMPLAINT**

Complaint Filed: February 23, 2024

Defendant REDWOOD EMPIRE FOOD BANK (hereinafter, "Defendant"), answers the Complaint filed by Plaintiff LISA CANNON (hereinafter, "Plaintiff") as follows:

GENERAL DENIAL

Under the provisions of Section 432.20 of the California Code of Civil Procedure, Defendant denies, both generally and specifically, each and every cause of action in the Complaint and each and every allegation therein, including a denial that Plaintiff suffered damage in the sum or sums alleged or in any other sum or sums whatsoever.

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1 **AFFIRMATIVE DEFENSES**

2 **FIRST AFFIRMATIVE DEFENSE**

3 **(Failure to State a Cause of Action)**

4 In answering Plaintiff's complaint, and as to each and every cause of action alleged
5 therein, Defendant alleges the Complaint fails to state facts sufficient to constitute a cause of
6 action.

7 **SECOND AFFIRMATIVE DEFENSE**

8 **(Statute of Limitations)**

9 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
10 therein, Defendant alleges that each cause of action is barred in whole or in part by the
11 applicable statute(s) of limitations, including but not limited to Sections 335.1, 337, 338, 339,
12 340, 343 of the California Code of Civil Procedure and Sections 12960 and 12965 of the
13 California Government Code.

14 **THIRD AFFIRMATIVE DEFENSE**

15 **(No Causation)**

16 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
17 therein, Defendant denies the injuries or damages complained of by Plaintiff, if any, were due to
18 or caused by any act or omission by Defendant.

19 **FOURTH AFFIRMATIVE DEFENSE**

20 **(Reasonable Interpretation of Applicable Law)**

21 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
22 therein, Defendant alleges that it acted in good faith reliance upon a reasonable interpretation
23 of applicable law.

24 **FIFTH AFFIRMATIVE DEFENSE**

25 **(Legitimate Business Reasons)**

26 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
27 therein, Defendant alleges any and all actions taken concerning Plaintiff were taken for lawful,
28 non-discriminatory, non-retaliatory, legitimate business reasons.

1 **SIXTH AFFIRMATIVE DEFENSE**

2 **(Good Faith)**

3 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
4 therein, Defendant alleges the relief prayed for in the Complaint is barred because to the extent
5 the alleged conduct attributed to Defendant was in fact committed, Defendant acted in good
6 faith and with innocent intent at all times and did not act willfully.

7 **SEVENTH AFFIRMATIVE DEFENSE**

8 **(Failure to Exhaust Administrative Remedies)**

9 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
10 therein, Defendant alleges Plaintiff's Complaint is barred in whole or in part by Plaintiff's
11 failure to exhaust her administrative remedies.

12 **EIGHTH AFFIRMATIVE DEFENSE**

13 **(Comparative Fault)**

14 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
15 therein, Defendant alleges Plaintiff's Complaint is barred because Plaintiff contributed entirely,
16 or at least in some degree, to her alleged damages.

17 **NINTH AFFIRMATIVE DEFENSE**

18 **(Same Actor)**

19 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
20 therein, Defendant alleges Plaintiff's claims are barred by application of the same actor defense.

21 **TENTH AFFIRMATIVE DEFENSE**

22 **(Conduct Outside Course and Scope)**

23 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
24 therein, Defendant asserts each cause of action cannot be maintained against Defendant because
25 if Defendant's employees (including Plaintiff) took the actions alleged, such actions were
26 committed outside the course and scope of such employees' employment, were not authorized,
27 adopted or ratified by Defendant and/or Defendant neither knew nor should have known of such
28 conduct.

1 **ELEVENTH AFFIRMATIVE DEFENSE**

2 **(No Violation of Public Policy)**

3 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
4 therein, Defendant alleges Plaintiff's Complaint is barred because Plaintiff's termination was
5 not caused, in whole or in part, by any conduct of Defendant in violation of public policy.

6 **TWELFTH AFFIRMATIVE DEFENSE**

7 **(Legitimate Business Activity)**

8 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
9 therein, Defendant exercised reasonable care to prevent any and all alleged discriminatory and
10 retaliatory behavior in that Defendant at all relevant times had written policies prohibiting
11 discrimination, harassment, and retaliation that were communicated to all employees and strictly
12 enforced.

13 **THIRTEENTH AFFIRMATIVE DEFENSE**

14 **(Reasonable Care)**

15 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
16 therein, Defendant exercised reasonable care to prevent any and all alleged discriminatory and
17 retaliatory behavior in that Defendant at all relevant times had written policies prohibiting
18 discrimination, harassment, and retaliation that were communicated to all employees and strictly
19 enforced.

20 **FOURTEENTH AFFIRMATIVE DEFENSE**

21 **(Failure to Utilize Complaint Procedures)**

22 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
23 therein, Defendant alleges Plaintiff's Complaint is barred because Plaintiff failed to take
24 advantage of any preventive or corrective opportunities provided by Defendant, including but
25 not limited to Plaintiff's failure to utilize Defendant's complaint procedures in a timely manner
26 if at all.

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1 **FIFTEENTH AFFIRMATIVE DEFENSE**

2 **(No Violation)**

3 In answering Plaintiff's Complaint, Defendant alleges it acted in good faith and with
4 reasonable grounds to believe its actions did not violate California Government Code Sections
5 12940 et seq., or any other law.

6 **SIXTEENTH AFFIRMATIVE DEFENSE**

7 **(Consent)**

8 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
9 therein, Defendant alleges Plaintiff, at all relevant times, gave her consent, express or implied,
10 to the alleged acts, omissions and conduct of the Defendant.

11 **SEVENTEENTH AFFIRMATIVE DEFENSE**

12 **(Complaint Barred by Labor Code)**

13 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
14 therein, Defendant alleges Plaintiff's Complaint is barred in whole or in part by Sections 2854,
15 2856, 2858, and 2859 of the California Labor Code, respectively, because Plaintiff failed to: (1)
16 use ordinary care and diligence in the performance of her duties, (2) comply substantially with
17 the reasonable directions of her employer, (3) exercise a reasonable degree of skill in
18 performing her duties, and (4) perform her job duties in a proper and skillful manner.

19 **EIGHTEENTH AFFIRMATIVE DEFENSE**

20 **(At-Will Employee)**

21 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
22 therein, Defendant alleges Plaintiff's Complaint is barred because Plaintiff was an at-will
23 employee.

24 **NINETEENTH AFFIRMATIVE DEFENSE**

25 **(Avoidable Consequences)**

26 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
27 therein, Defendant alleges Plaintiff's Complaint is barred by the application of the avoidable
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1 consequences doctrine because Defendant implemented appropriate policies and procedures,
2 which Plaintiff failed to follow.

3 **TWENTIETH AFFIRMATIVE DEFENSE**

4 **(Failure to Mitigate)**

5 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
6 therein, Defendant alleges that even if Plaintiff has suffered damages or injuries, all or some
7 portion of said damages or injuries were caused or attributable to Plaintiff's failure to take
8 reasonable action to mitigate said injuries or damages.

9 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

10 **(Unclean Hands)**

11 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
12 therein, Defendant alleges Plaintiff is barred from any relief by the equitable doctrine of unclean
13 hands.

14 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

15 **(Waiver)**

16 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
17 therein, Defendant alleges by Plaintiff's conduct, Plaintiff waived any right to recover any relief
18 pursuant to her Complaint, or any purported cause of action alleged therein.

19 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

20 **(Estoppel)**

21 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
22 therein, Defendant alleges Plaintiff is estopped by her conduct from recovering any relief
23 pursuant to her Complaint, or any purported cause of action alleged therein.

24 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

25 **(Laches)**

26 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
27 therein, Defendant alleges Plaintiff's claims are barred by the doctrine of laches.

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TWENTY-FIFTH AFFIRMATIVE DEFENSE

(No Exemplary or Punitive Damages)

In answering Plaintiff’s Complaint, and as to each and every cause of action alleged therein, Defendant alleges Plaintiff has failed to state facts sufficient to state a claim on which an award of punitive damages or exemplary damages may be granted.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

(No Attorney’s Fees)

In answering Plaintiff’s Complaint, and as to each and every cause of action alleged therein, Defendant alleges Plaintiff failed to state facts sufficient to state a claim for which she is entitled to recover attorneys’ fees.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

(No Basis for Costs)

In answering Plaintiff’s Complaint, and as to each and every action alleged therein, Defendant alleges Plaintiff has failed to state facts sufficient to state a claim on which an award of costs may be granted.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

(Not Motivating Factor)

In answering Plaintiff’s Complaint, and as to each and every cause of action alleged therein, Defendant alleges in the event of Plaintiff proves any wrongful acts by the answering Defendant, the adverse employment actions about which Plaintiff complains would have been taken even if the alleged wrongful motive played no role.

TWENTY-NINTH AFFIRMATIVE DEFENSE

(No Severe or Pervasive Conduct)

In answering Plaintiff’s Complaint, and as to each and every cause of action alleged therein, Defendant alleges the conduct of which Plaintiff complains was not severe or pervasive.

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1 **THIRTIETH AFFIRMATIVE DEFENSE**

2 **(Lack of Harm)**

3 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
4 therein, Defendant denies Plaintiff was harmed or offended by this answering Defendants'
5 alleged conduct.

6 **THIRTY-FIRST AFFIRMATIVE DEFENSE**

7 **(Privilege)**

8 In answering Plaintiff's Complaint, and as to each and every cause of action, even
9 assuming *arguendo* statements were published by the Defendant, the substance of those
10 statements were privileged.

11 **THIRTY-SECOND AFFIRMATIVE DEFENSE**

12 **(Complaint is Frivolous)**

13 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
14 therein, Defendant alleges a reasonable opportunity for investigation and discovery will reveal
15 and, on that basis alleges, Plaintiff's Complaint is frivolous under Section 128.7 of the Code of
16 Civil Procedure, and notice is hereby given Defendant will seek an order awarding its expenses
17 including attorneys' fees incurred herein, at the conclusion of litigation.

18 **THIRTY-THIRD AFFIRMATIVE DEFENSE**

19 **(In Pari Delicto)**

20 Defendant alleges Plaintiff's claims are barred, in whole or in part, by the doctrine of *in*
21 *pari delicto* due to the conduct of Plaintiff.

22 **THIRTY-FOURTH AFFIRMATIVE DEFENSE**

23 **(After-Acquired Evidence)**

24 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
25 therein, Defendant alleges Plaintiff's claims are barred due to the application of the After
26 Acquired Evidence Doctrine, or alternatively, the Doctrine of After-Acquired evidence limits
27 and reduces Plaintiff's alleged damages.

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1 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

2 **(Workers' Compensation Exclusion)**

3 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
4 therein, Defendant allege Plaintiff's alleged damages for physical or emotional distress are
5 preempted by the exclusivity of workers' compensation law as provided under the California
6 Labor Code.

7 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

8 **(Penalties Violate Due Process)**

9 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
10 therein, Defendant alleges an award of penalties against them under the circumstances of this
11 case would constitute an excessive fine and otherwise be in violation of Defendants' due
12 process and other rights under the United States and California Constitutions.

13 **THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

14 **(No Emotional Distress/Personal Injury Damages)**

15 Plaintiff has failed to state facts sufficient to state a claim for which she is entitled to
16 recover emotional distress and/or personal injury damages.

17 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

18 **(Unknown Defenses)**

19 In answering Plaintiff's Complaint, and as to each and every cause of action alleged
20 therein, Defendant presently has insufficient knowledge or information upon which to form a
21 belief as to whether it may have any additional affirmative defenses available. Accordingly,
22 Defendant reserves the right to assert additional defenses to the Complaint in the event further
23 discovery or inquiry indicates that they are appropriate.

24 **PRAYER**

25 WHEREFORE, Defendant prays as follows:

- 26 1. That Plaintiff takes nothing from Defendant by this Complaint, and that the Complaint
27 be dismissed with prejudice:
- 28 2. That judgment be entered in favor of Defendant and against Plaintiff; and

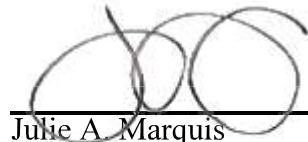
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3. That Defendant be awarded costs of suit and reasonable attorneys’ fees incurred herein.

Dated: April 18, 2024

FREEMAN MATHIS & GARY, LLP

By:



Julie A. Marquis
Jasmyne Shaw

Attorneys for Defendant
REDWOOD EMPIRE FOOD BANK

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF MARIN**

3 I am employed in the County of Marin, State of California. I am over the age of 18 and
4 not a party to the within action; my business address is 1010 B Street, Suite 400, San Rafael, CA
94901 and my electronic service address is Kimberly.basileu@fmglaw.com.

5 On April 18, 2024, I served the foregoing document(s) entitled:

6 **DEFENDANT REDWOOD EMPIRE FOOD BANK'S ANSWER TO PLAINTIFF'S**
7 **COMPLAINT**

8 on interested parties in this action by placing a true and correct copy thereof enclosed in a sealed
envelope addressed as follows:

9 Candice Clipner, Esq.
10 740 4th Street, 2nd Floor
11 Santa Rosa, CA 95404
candice@clipnerlaw.com

Attorney for Plaintiff LISA CANNON

12 ☒ **(BY MAIL)** I deposited such envelope(s) in the mail at San Rafael, California. The
13 envelope was mailed with postage thereon fully prepaid and addressed as set forth
14 above. I am "readily familiar" with the firm's practice of collection and processing
15 correspondence for mailing. Under that practice it would be deposited with U.S. postal
service on that same day with postage thereon fully prepaid at San Rafael, California in
the ordinary course of business. I am aware that on motion of the party served, service is
presumed invalid if postal cancellation date or postage meter date is more than one day
after date of deposit for mailing in affidavit.

16 ☒ **(BY ELECTRONIC SERVICE):** Based on a court order or an agreement of the parties
17 to accept electronic service, by transmitting a true and correct copy of the foregoing
document(s) to be sent to the persons at the electronic service addresses set forth above.

18 ☒ **(BY ELECTRONIC MAIL) (COURTESY COPY):** By Transmitting a true and correct
19 copy of the foregoing document(s) to the e-mail address(es) set forth above.

20 ☒ (State) I declare under penalty of perjury under the laws of the State of California
that the above is true and correct.

21 Executed on April 18, 2024, at San Rafael, California.

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23 _____
Kim Basileu