

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG

WEST VIRGINIA CITIZENS DEFENSE

LEAGUE, INC., a West Virginia nonprofit
corporation,

Plaintiff,

Civil No.: 3:11-cv-00005-JPB

CITY OF MARTINSBURG, a West Virginia
municipal corporation;

GEORGE KAROS, personally and in his official
capacity as the Mayor of the City of
Martinsburg;

MARK S. BALDWIN, personally and in his
official capacity as the City Manager of the
City of Martinsburg; and

KEVIN MILLER, personally and in his
official capacity as the Chief of Police of
the City of Martinsburg,

Defendants

**ANSWER OF DEFENDANTS CITY OF MARTINSBURG,
GEORGE KAROS, MARK S. BALDWIN AND KEVIN MILLER**

COMES NOW the Defendants, City of Martinsburg, George Karos, Mark S. Baldwin and Kevin Miller, by counsel, Floyd M. Sayre, III and the law firm of Bowles Rice McDavid Graff and Love, LLP and makes the following Answer to the Amended Complaint filed within.

FIRST DEFENSE

The Amended Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Defendants' actions are protected by constitutional, statutory or common law immunity, which is absolute or qualified.

THIRD DEFENSE

Defendants' conduct is justified because it substantively furthers one or more countervailing interests, including, but not limited to, the protection of the public welfare.

FOURTH DEFENSE

The Plaintiffs' Amended Complaint is barred by the applicable statute of limitations.

FIFTH DEFENSE

The Plaintiffs' Amended Complaint is barred by waiver, laches, and estoppel.

SIXTH DEFENSE

Defendant reserves the right to assert such additional defenses as may become apparent during the course of discovery.

SEVENTH DEFENSE

With regard to the numbered paragraphs of the Amended Complaint, the Defendant answers as follows:

1. Defendants are without sufficient information to form an opinion as to the truth of the allegations contained in paragraph 1 of the Amended Complaint.

2. Defendants are without sufficient information to form an opinion as to the truth of the allegations contained in paragraph 2 of the Amended Complaint.

3. Defendants are without sufficient information to form an opinion as to the truth of the allegations contained in paragraph 3 of the Amended Complaint.

4. Defendants admit the allegations contained in paragraph 4 of the Amended Complaint.

5. Defendants admit the allegations contained in paragraph 5 of the Amended Complaint.

6. Defendants admit that the City of Martinsburg by and through its Police Department enforces the ordinances passed by the City Council of the City of Martinsburg, but otherwise, the allegations of paragraph 6 of the Amended Complaint are denied.

7. Defendants admit that George Karos is the duly elected Mayor of the City of Martinsburg and exercises all of the enumerated functions of the Mayor; but otherwise, the allegations of paragraph 7 of the Amended Complaint are denied.

8. Defendants admit that Mark S. Baldwin is the duly appointed City Manager of the City of Martinsburg and exercises all of the enumerated functions of the City Manager; but otherwise, the allegations of paragraph 8 of the Amended Complaint are denied.

9. Defendants admit that Kevin Miller is the duly appointed Chief of Police of the City of Martinsburg and exercises all of the enumerated functions of the Chief of Police; but otherwise, the allegations of paragraph 9 of the Amended Complaint are denied.

10. Defendants can neither admit nor deny allegations regarding the jurisdiction of this Court as the same constitute legal conclusions to which no response is required.

11. Defendants admit the allegations contained in paragraph 11 of the Amended Complaint.

12. Defendants admit the allegations contained in paragraph 12 of the Amended Complaint.

13. Defendants admit the allegations contained in paragraph 13 of the Amended Complaint.

14. Defendants are without sufficient information to form an opinion as to the truth of the allegations contained in paragraph 14 of the Amended Complaint.

15. Defendants are without sufficient information to form an opinion as to the truth of the allegations contained in paragraph 15 of the Amended Complaint.

16. Defendants are without sufficient information to form an opinion as to the truth of the allegations contained in paragraph 16 of the Amended Complaint.

17. Defendants are without sufficient information to form an opinion as to the truth of the allegations contained in paragraph 17 of the Amended Complaint.

18. Defendants are without sufficient information to form an opinion as to the truth of the allegations contained in paragraph 18 of the Amended Complaint.

19. Defendants admit the allegations contained in paragraph 19 of the Amended Complaint.

20. Defendants incorporate, by reference, their responses to the allegations contained in paragraphs 1 through 19 of the Amended Complaint as if set forth fully herein, in response to the allegations of paragraph 20 of Plaintiffs' Amended Complaint.

21. Defendants deny the allegations contained in paragraph 21 of the Amended Complaint.

22. Defendants are without sufficient information to form an opinion as to the truth of the allegations contained in paragraph 22 of the Amended Complaint.

23. Defendants deny the allegations contained in paragraph 23 of the Amended Complaint.

24. Defendants deny the allegations contained in paragraph 24 of the Amended Complaint.

25. Defendants deny the allegations contained in paragraph 25 of the Amended Complaint.

26. Defendants deny the allegations contained in paragraph 26 of the Amended Complaint.

27. Defendants are without sufficient information to form an opinion as to the truth of the allegations contained in paragraph 27 of the Amended Complaint.

28. Defendants are without sufficient information to form an opinion as to the truth of the allegations contained in paragraph 28 of the Amended Complaint.

29. Defendants deny the allegations contained in paragraph 29 of the Amended Complaint.

30. Defendants incorporate, by reference, their responses to the allegations contained in paragraphs 1 through 29 of the Amended Complaint as if set forth fully herein, in response to the allegations of paragraph 30 of Plaintiffs' Amended Complaint.

31. Defendants can neither admit nor deny allegations regarding paragraph 31 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

32. Defendants incorporate, by reference, their responses to the allegations contained in paragraphs 1 through 31 of the Amended Complaint as if set forth fully herein, in response to the allegations of paragraph 32 of Plaintiffs' Amended Complaint.

33. Defendants deny the allegations contained in paragraph 33 of the Amended Complaint.

34. Defendants deny the allegations contained in paragraph 34 of the Amended Complaint.

35. Defendants admit the allegations contained in paragraph 35 of the Amended Complaint.

36. Defendants can neither admit nor deny allegations regarding paragraph 36 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

37. Defendants can neither admit nor deny allegations regarding paragraph 37 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

38. Defendants can neither admit nor deny allegations regarding paragraph 38 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

39. Defendants incorporate, by reference, their responses to the allegations contained in paragraphs 1 through 38 of the Amended Complaint as if set forth fully herein, in response to the allegations of paragraph 39 of Plaintiffs' Amended Complaint.

40. Defendants can neither admit nor deny allegations regarding paragraph 40 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

41. Defendants incorporate, by reference, their responses to the allegations contained in paragraphs 1 through 40 of the Amended Complaint as if set forth fully herein, in response to the allegations of paragraph 41 of Plaintiffs' Amended Complaint.

42. Defendants admit the allegations contained in paragraph 42 of the Amended Complaint.

43. Defendants admit the allegations contained in paragraph 43 of the Amended Complaint.

44. Defendants admit the allegations contained in paragraph 44 of the Amended Complaint.

45. Defendants deny the allegations contained in paragraph 45 of the Amended Complaint.

46. Defendants can neither admit nor deny allegations regarding paragraph 46 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

47. Defendants can neither admit nor deny allegations regarding paragraph 47 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

48. Defendants can neither admit nor deny allegations regarding paragraph 48 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

49. Defendants can neither admit nor deny allegations regarding paragraph 49 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

50. Defendants can neither admit nor deny allegations regarding paragraph 50 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

51. Defendants can neither admit nor deny allegations regarding paragraph 51 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

52. Defendants can neither admit nor deny allegations regarding paragraph 52 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

53. Defendants incorporate, by reference, their responses to the allegations contained in paragraphs 1 through 52 of the Amended Complaint as if set forth fully herein, in response to the allegations of paragraph 53 of Plaintiffs' Amended Complaint.

54. Defendants can neither admit nor deny allegations regarding paragraph 54 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

55. Defendants can neither admit nor deny allegations regarding paragraph 55 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

56. Defendants can neither admit nor deny allegations regarding paragraph 56 of the Amended Complaint as the same constitute legal conclusions to which no response is required.

57. Defendants deny all of the Plaintiff's allegations in its request for relief and deny that the Plaintiff is entitled to any relief on her claims whatsoever.

EIGHTH DEFENSE

Except for any allegations hereinabove specifically admitted, the Defendants deny each and every allegation in the Complaint that may in any way relate to them.

WHEREFORE Defendant prays that this case be dismissed with prejudice, and that it be granted costs.

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KEVIN MILLER, personally and in his official capacity as the Chief of Police of the City of Martinsburg

By Counsel

s/ Floyd M. Sayre, III

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Defendants

Certificate of Service

I, Floyd M. Sayre, III, do hereby certify that on this 5th day of September, 2011, I electronically filed the *Answer Of Defendants City Of Martinsburg, George Karos, Mark S. Baldwin And Kevin Miller* with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participant:

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s/ Floyd M. Sayre, III

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