

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

JULIE A. ROBINSON,

Plaintiff,

VS.

BOARD OF SCHOOL TRUSTEES OF  
THE WAWASEE COMMUNITY SCHOOL  
CORPORATION,

Defendant.

Case No: 3:19-cv-00041-JD-MGG

**DEFENDANT, BOARD OF SCHOOL TRUSTEES OF THE WAWASEE COMMUNITY  
SCHOOL CORPORATION'S ANSWER TO PLAINTIFF'S COMPLAINT FOR  
DAMAGES, AFFIRMATIVE DEFENSES, AND JURY DEMAND**

Defendant, Board of School Trustees of the Wawasee Community School Corporation, by counsel, answers Plaintiff's Complaint as follows:

## I. NATURE OF ACTION

1. Mrs. Robinson was retaliatorily terminated in March 2019 during the pendency of this litigation for failing to adhere to sex stereotypes, for speaking on issues of public concern, for refusing to participate in activity for which she could be held liable, and for bringing this action in court.

**ANSWER: Defendant denies the allegations contained in paragraph one (1) of Plaintiff's Complaint.**

## **II. JURISDICTION AND VENUE**

2. This suit is brought pursuant to 42 U.S.C. § 2000e-5, 20 U.S.C. § 1682, and 42 U.S.C. § 1983.

**ANSWER: Objection. No allegations are set forth against the Defendant; therefore, no answer is necessary.**

3. The Court has jurisdiction over Mrs. Robinson's federal claims pursuant to 28 U.S.C. §§ 1331 and 1343(a).

**ANSWER: Defendant admits the allegations contained in paragraph three (3) of Plaintiff's Complaint.**

4. The Court has supplemental jurisdiction over Mrs. Robinson's state law claims pursuant to 28 U.S.C. § 1367.

**ANSWER: Defendant admits the allegations contained in paragraph four (4) of Plaintiff's Complaint.**

5. Venue is proper in this district pursuant to 28 U.S.C. §1391(b). Defendant has offices within the district, and all relevant events giving rise to these claims occurred in the district.

**ANSWER: Defendant admits the allegations contained in paragraph five (5) of Plaintiff's Complaint.**

### **III. PARTIES**

6. Plaintiff is Julie A. Robinson ("Robinson"). Mrs. Robinson is a United States citizen, resident of Kosciusko County, Indiana, and former qualified female employee of the Board of School Trustees of the Wawasee Community School Corporation. Mrs. Robinson served as the varsity head coach of the Wawasee High School swim program from 2008 until the time of her unlawful, discriminatorily, and retaliatory discharge from employment in 2019.

**ANSWER: The Defendant admits the plaintiff is a resident of Kosciusko County and was the varsity head coach of the Wawasee High School swim program. The**

**defendant denies the remaining allegations contained in rhetorical paragraph six (6) of the complaint.**

7. Defendant is Board of School Trustees of the Wawasee Community School Corporation (“Board”). Defendant Board is headquartered in Kosciusko County, Indiana. Defendant Board operates a public school corporation consisting of public elementary, middle, and high schools, including Wawasee High School, which is located in Kosciusko County, Indiana. At all times material, Defendant Board acted under color of law and was a recipient of federal financial assistance. Defendant Board is an employer within the meaning of Title VII of the Civil Rights Act. Defendant Board is named in its official capacity for each of Mrs. Robinson’s federal claims. Defendant Board is named in its capacity as employer for each of Mrs. Robinson’s state law claims.

**ANSWER: Defendant admits that it is a public school corporation and is without knowledge regarding the truth or falsity of the allegations set forth in paragraph seven (7) of Plaintiff’s Complaint so as to neither admit nor deny the same at this time.**

#### **IV. FACTS**

8. In 2008, Mrs. Robinson began employment with Defendant Board as varsity head coach of the Wawasee High School swim program.

**ANSWER: Defendant admits the allegations contained in paragraph eight (8) of Plaintiff’s Complaint.**

9. From 2008 until her unlawful discharge from employment in 2019, Mrs. Robinson successfully oversaw and managed the Wawasee High School swim program and performed within the reasonable expectations of her employer.

**ANSWER: Objection. Rhetorical paragraph nine (9) is argumentative because it improperly assumes the plaintiff was unlawfully discharged. It is also objectionable because it uses the term “successfully,” which is not defined, and its meaning cannot be ascertained from the complaint. Without waiving said objections, defendant denies said allegations.**

10. Mrs. Robinson consistently received positive employee reviews for her operation of the swim program.

**ANSWER: Defendant lacks sufficient information or knowledge regarding the truth or falsity of the allegations set forth in paragraph ten (10) of Plaintiff’s Complaint so as to neither admit nor deny the same at this time.**

11. Athletes in Mrs. Robinson’s swim program were regularly successful at statewide meets and competitions.

**ANSWER: Objection. Rhetorical paragraph 11 uses subjective terms, the meaning of which cannot be ascertained from the complaint. Therefore, rhetorical paragraph 11 is unintelligible as framed. Without waiving said objection, defendant denies said allegations.**

12. In 2009, the school pool in which Mrs. Robinson’s swimming program athletes practiced underwent a renovation.

**ANSWER: Defendant admits the allegations contained in paragraph twelve (12) of Plaintiff’s Complaint.**

13. That year, Mrs. Robinson began to notice concerning health issues in her athletes related to use of the pool.

**ANSWER: Defendant denies the allegations contained in paragraph thirteen (13) of Plaintiff’s Complaint.**

14. These health issues included respiratory illness requiring medical attention and the loss of body hair.

**ANSWER: Defendant denies the allegations contained in paragraph fourteen (14) of Plaintiff's Complaint.**

15. From that time through 2012, including at a May 2012 school board meeting, Mrs. Robinson repeatedly reported these issues of public concern to executive and decision-making personnel of Defendant Board including Defendant Board's superintendent, school board members, and athletic director.

**ANSWER: Objection. Rhetorical paragraph 15 improperly assumes the truth of the allegation, that the matters were of "public concern," and further fails to set forth what statements were made. Accordingly, the defendant can neither admit nor deny the allegations contained in rhetorical paragraph 15 and the same are denied.**

16. Mrs. Robinson was told in response to her reports that there were no issues with the pool.

**ANSWER: Objection. Rhetorical paragraph 16 improperly assumes the truth of the allegation. Accordingly, it is argumentative.**

17. Mrs. Robinson was told that the problem, in fact, was her raising of issues of public concern in what was perceived by administration to be non-feminine manner.

**ANSWER: Defendant denies the allegations contained in paragraph seventeen (17) of Plaintiff's Complaint.**

18. Defendant Board's superintendent told Mrs. Robinson that she needed to be more "approachable," needed to "be softer," and needed to be more "like a woman."

**ANSWER: Defendant denies the allegations contained in paragraph eighteen (18) of Plaintiff's Complaint.**

19. Eventually, Defendant Board did make some limited modification to the pool later in 2012.

**ANSWER: Objection. The term "limited modification" is unintelligible as framed and argumentative. Without waiving said objections, the defendant admits that the pool was repaired and modified.**

20. After the time of these modifications, Defendant Board's superintendent criticized Mrs. Robinson for not being what he viewed as sufficiently grateful to him.

**ANSWER: Defendant denies the allegations contained in paragraph twenty (20) of Plaintiff's Complaint.**

21. However, despite the claimed modifications, swimming program athletes continued to experience health issues related to use of the school pool.

**ANSWER: Defendant denies the allegations contained in paragraph twenty-one (21) of Plaintiff's Complaint.**

22. Mrs. Robinson continued to report these issues of public concern to Defendant Board's administration up until the time of her unlawful termination in 2019.

**ANSWER: Objection. Rhetorical paragraph 22 improperly assumes the truth of the allegation, that the matters were of "public concern," and further fails to set forth what statements were made. Accordingly, the defendant can neither admit nor deny the allegations contained in rhetorical paragraph 22 and the same are denied.**

23. In 2016, Defendant Board hired a new athletic director for its public schools, Cory Schutz.

**ANSWER: Objection. Rhetorical paragraph 23 is argumentative because it improperly assumes the truth of the allegations, improperly assumes the plaintiff was unlawfully terminated, and improperly assumes the truth of the preceding allegations. Without waiving said objections, defendant denies said allegations.**

24. After his hire, Director Schutz began pressing for Mrs. Robinson's termination in order to replace her with a male coach.

**ANSWER: Defendant denies the allegations contained in paragraph twenty-four (24) of Plaintiff's Complaint.**

25. For instance, in January 2017, Director Schutz told Mrs. Robinson that he expected her to defer to two male middle school swimming coaches in operations of the swim program and Robinson was to mesh her philosophies of coaching with that of the middle school coaches.

**ANSWER: Defendant denies the allegations contained in paragraph twenty-five (25) of Plaintiff's Complaint.**

26. From that time until her termination, Director Schutz continued to reprimand Robinson and reduced resources available to the high school swimming program in order to force out Mrs. Robinson from her position and replace her with a male coach.

**ANSWER: Defendant denies the allegations contained in paragraph twenty-six (26) of Plaintiff's Complaint.**

27. When Mrs. Robinson advocated for her athletes to have access to adequate resources and be provided with safe swimming conditions, she was stereotyped by Defendant Board's administration as not being sufficiently feminine in her approach.

**ANSWER: Objection. Rhetorical paragraph 27 is argumentative because it improperly assumes the truth of its allegations, and the truth of the preceding allegations. Without waiving, Defendant denies said allegations.**

28. Defendant Board's administration expected her as a woman to be demur, quiet, and deferential to male employees of Defendant Board.

**ANSWER: Defendant denies the allegations contained in paragraph twenty-eight (28) of Plaintiff's Complaint.**

29. In February 2018, Mrs. Robinson was threatened with suspension by Defendant Board's administration.

**ANSWER: Defendant denies the allegations contained in paragraph twenty-nine (29) of Plaintiff's Complaint.**

30. In March 2018, Mrs. Robinson was reprimanded by Defendant Board's administration.

**ANSWER: Defendant denies the allegations contained in paragraph thirty (30) of Plaintiff's Complaint.**

31. In March 2018, Mrs. Robinson was notified that she was referred to as a "real bitch" for raising issues concerning the school pool.

**ANSWER: Defendant denies the allegations contained in paragraph thirty-one (31) of Plaintiff's Complaint.**

32. On March 30, 2018, Mrs. Robinson filed her Charge of Discrimination with the Equal Opportunity Commission.

**ANSWER: Defendant admits the allegations contained in paragraph thirty-two (32) of Plaintiff's Complaint.**



33. On November 30, 2018, Mrs. Robinson received her Notice of Right to Sue.

**ANSWER: Defendant lacks sufficient information or knowledge regarding the truth or falsity of the allegations set forth in paragraph thirty-three (33) of Plaintiff's Complaint so as to neither admit nor deny the same at this time.**

34. On December 28, 2018, Mrs. Robinson filed suit against Defendant.

**ANSWER: Defendant admits the allegations contained in paragraph thirty-four (34) of Plaintiff's Complaint.**

35. On March 14, 2019, during the pendency of this litigation, Defendant through employees including Director Schutz, terminated Mrs. Robinson from employment.

**ANSWER: Defendant denies the allegations contained in paragraph thirty-five (35) of Plaintiff's Complaint.**

## **V. CLAIMS FOR RELIEF**

### **TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

36. 24. Under Title VII of the Civil Rights Act of 1964, Defendant Board as an employer may not discriminate against, retaliate against, or terminate an employee on the basis of sex, including sex stereotyping. 42 U.S.C. § 2000e-2(a)(1); *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989); *Hively v. Ivy Tech Cmty. Coll. of Ind.*, 853 F.3d 339 (7th Cir. 2017).

**ANSWER: Rhetorical paragraph 36 is mistakenly numbered as paragraph 24. It is also objectionable because no allegations are set forth against this defendant. Therefore, no answer is necessary. To the extent that rhetorical paragraph 36 can be read as claiming that the defendant discriminated against the plaintiff, the same is denied. (The defendant will number the remaining paragraphs sequentially, beginning with 37).**

37. 25. However, based on the facts above, Defendant Board so intentionally, willfully, and wantonly discriminated against and retaliated against Mrs. Robinson and terminated her from employment.

**ANSWER: Defendant denies the allegations contained in paragraph thirty-seven (37) of Plaintiff's Complaint.**

38. 26. As a result, Mrs. Robinson suffered loss of employment, financial harm, mental anguish, emotional distress, and other damages and injuries.

**ANSWER: Defendant denies the allegations contained in paragraph thirty-eight (38) of Plaintiff's Complaint.**

#### **TITLE IX OF THE EDUCATION AMENDMENTS OF 1972**

39. 27. Under Title IX of the Education Amendments of 1972, Defendant Board as a recipient of federal financial assistance in educational programs and activities may not discriminate against, exclude, or retaliate against a person on the basis of sex, including sex stereotyping. 20 U.S.C. §1681; *Jackson v. Birmingham Bd. of Ed.*, 544 U.S. 167 (2005); *Whitaker v. Kenosha Unified School District*, 858 F.3d 1034 (7th Cir. 2017).

**ANSWER: Objection. No allegations are set forth against this defendant; therefore, no answer is necessary. To the extent that rhetorical paragraph 39 can be read as claiming that the defendant discriminated against the plaintiff, the same is denied.**

40. 28. However, based on the facts above, Defendant Board so intentionally, willfully, and wantonly discriminated against and retaliated against Mrs. Robinson, including terminating her from employment.

**ANSWER: Defendant denies the allegations contained in paragraph forty (40) of Plaintiff's Complaint.**

41. 29. As a result, Mrs. Robinson suffered loss of employment, financial harm, mental anguish, emotional distress, and other damages and injuries.

**ANSWER: Defendant denies the allegations contained in paragraph forty-one (41) of Plaintiff's Complaint.**

**EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT**

42. 30. Under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Defendant Board as a state actor may not intentionally discriminate against or retaliate against an individual on the basis of sex, including sex stereotyping, absent advancement of an important governmental interest through means substantially related to that interest. U.S. Const. amend. XIV, § 1; *Fitzgerald v. Barnstable Sch. Comm.*, 555 U.S. 246 (2009); *Doe v. Galster*, 768 F.3d 611 (7th Cir. 2014).

**ANSWER: Objection. No allegations are set forth against this defendant; therefore, no answer is necessary. To the extent that rhetorical paragraph 42 can be read as claiming that the defendant discriminated against the plaintiff, the same is denied.**

43. 31. However, based on the facts above, Defendant Board so intentionally, willfully, and wantonly discriminated against and retaliated against Mrs. Robinson, including terminating her from employment.

**ANSWER: Defendant denies the allegations contained in paragraph forty-three (43) of Plaintiff's Complaint.**

44. 32. As a result, Mrs. Robinson suffered loss of employment, financial harm, mental anguish, emotional distress, and other damages and injuries.

**ANSWER: Defendant denies the allegations contained in paragraph forty-four (44) of Plaintiff's Complaint.**

**FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION**

45. 33. Under the First Amendment to the United States Constitution, Defendant Board as a state actor may not intentionally discriminate against or retaliate against an individual for speaking as a citizen on matters of public concern. U.S. Const. amend. I; *Lozman v. City of Riviera Beach, Fla.*, 138 S. Ct. 1945 (2018); *Meade v. Moraine Valley Cmty. Coll.*, 770 F.3d 680 (7th Cir. 2014).

**ANSWER: Objection. No allegations are set forth against this defendant; therefore, no answer is necessary. To the extent that rhetorical paragraph 45 can be read as claiming that the defendant discriminated against the plaintiff, the same is denied.**

46. 34. However, based on the facts above, Defendant Board so intentionally, willfully, and wantonly discriminated against and retaliated against Mrs. Robinson, including terminating her from employment.

**ANSWER: Defendant denies the allegations contained in paragraph forty-six (46) of Plaintiff's Complaint.**

47. 35. As a result, Mrs. Robinson suffered loss of employment, financial harm, mental anguish, emotional distress, and other damages and injuries.

**ANSWER: Defendant denies the allegations contained in paragraph forty-seven (47) of Plaintiff's Complaint.**

***MCCLANAHAN RETALIATORY DISCHARGE***

48. 36. Under the public policy of Indiana, an employer may not retaliatorily discharge an employee for refusing to commit acts for which she may be personally liable. *McClanahan v. Remington Freight Lines, Inc.*, 517 N.E.2d 390 (Ind. 1988); *McGarrity v. Berlin Metals, Inc.*, 774 N.E.2d 71 (Ind. Ct. App. 2002); *Carriage, Inc. v. Berna*, 651

N.E.2d 284 (Ind. Ct. App. 1995).

**ANSWER: Objection. No allegations are set forth against this defendant; therefore, no answer is necessary. To the extent that rhetorical paragraph 48 can be read as claiming that the defendant required the plaintiff to commit an illegal act, the same is denied.**

49. 37. However, based on the facts above, Defendant Board so intentionally, willfully, and wantonly retaliated against Mrs. Robinson and terminated her from employment.

**ANSWER: Defendant denies the allegations contained in paragraph forty-nine (49) of Plaintiff's Complaint.**

50. 38. As a result, Mrs. Robinson suffered loss of employment, financial harm, mental anguish, emotional distress, and other damages and injuries.

**ANSWER: Defendant denies the allegations contained in paragraph fifty (50) of Plaintiff's Complaint.**

WHEREFORE, Board of School Trustees of the Wawasee Community School Corporation, by counsel, request that this Court enter a judgment in its favor and against the Plaintiff, that Plaintiff take nothing by way of her Complaint, for costs of this action, and for all other just and proper relief in the premises.

### **AFFIRMATIVE DEFENSES**

Defendant, Board of School Trustees of the Wawasee Community School Corporation, by counsel, in further answer to and for its affirmative defenses to Plaintiff's Complaint state as follows:

1. The Complaint fails to state a claim upon which relief may be granted.
2. Ms. Robinson has failed to identify any comparators.
3. The Defendant had a legitimate non-discriminatory reason for undertaking any activities related to Robinson's employment.

4. The Complaint fails to state a claim upon which punitive damages may be awarded.

5. The complaint may be barred because it contains many theories that were never presented to the EEOC.

6. The Plaintiff failed to comply and/or did not exhaust her administrative remedies.

7. The Plaintiff's claims may be barred by the applicable statute of limitations.

8. The Plaintiff has failed to attach a copy of the written documents upon which her claim is based to the Complaint.

9. The Plaintiff is guilty of contributory negligence.

10. The Plaintiff's conduct in any and all dealings was the proximate cause of any damage the Plaintiff allegedly received.

11. The Plaintiff's alleged damages, if any, were not proximately caused by any act or omission attributable to this defendant under any theory of liability.

12. The Plaintiff failed to mitigate any damages she allegedly received.

13. This answering Defendant reserves the right to further plead defenses of which it becomes aware through discovery or otherwise.

14. To the extent that this answering Defendant has not responded to any of the allegations contained in Plaintiff's Complaint, Defendant specifically denies the same at this time.

15. The Plaintiff was an at-will employee.

16. The Defendant is entitled to an absolute and qualified immunity.

17. Plaintiff's claims are barred, in whole or in part, because Defendant at all times acted in compliance with all applicable statutes.

18. The Defendant acted reasonably and in good faith with respect to Plaintiff at all times

pertinent hereto.

19. Plaintiff's claims are barred because she was afforded all of the due process rights that she was entitled to receive under Indiana law.

20. There is substantial evidence to support the Defendant's decisions concerning Plaintiff.

21. The Defendant's decisions regarding Plaintiff were not arbitrary and/or capricious.

22. The Defendant is entitled to all of the protections of the Indiana Tort Claims Act.

23. The Plaintiff may have failed to provide the requisite notice pursuant to the Indiana Tort Claims Act.

24. Any allegations not specifically admitted, denied or controverted in Defendant's answer above are hereby specifically DENIED.

25. Any and all injuries and damages sustained by Plaintiff proximately resulted from comparative fault chargeable to Plaintiff and such damages must be proportionately diminished.

26. If Plaintiff was injured as alleged in her Complaint, said injuries were caused by the failure of the Plaintiff to exercise reasonable care for her own safety and that such failure was the sole and proximate cause of said alleged injuries.

27. The percentage of Plaintiff's fault was greater than the combined fault of the defendants.

28. The Plaintiff is barred by operation of law from recovering punitive damages against Defendant for claims asserted under 42 U.S.C. § 1983. See *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271, 101 S. Ct. 2748, 69 L. Ed. 2d 616 (1981).

29. The Plaintiff is barred by operation of law from recovering punitive damages against the Defendant on any alleged state law claims. (Ind. Code § 34-13-3-4).

30. Any alleged state law tort claims relating to acts or omissions that occurred more than 180 days before delivery of a tort claim notice are barred, as a matter of law, by the ITCA.

31. Any alleged state law claims are subject to the aggregate limits on damages recoverable under the Indiana Tort Claims Act. Ind. Code § 34-13-3-4(a)(1)(c).

32. Any alleged state law claims are subject to the common law, constitutional and statutory privileges and immunities of Indiana law and the Indiana Tort Claims Act, I.C. 34-13-3-1, et. seq., including but not limited to, I.C. § 34-13-3-3 (7), (8) and (10).

33. Plaintiff's claims are barred to the extent that she has waived claims by actions or inactions.

34. The Defendant is immune from liability for Plaintiff's claims to the extent the doctrine of qualified immunity, absolute sovereign immunity, legislative immunity, quasi-legislative immunity, judicial immunity or quasi-judicial immunity may apply.

35. The Defendant is entitled to a credit or set-off for all collateral source or other payments or settlements paid to or on behalf of the Plaintiff by any third party.

36. Plaintiff failed to satisfy the legal requisites for the actions alleged in her Complaint.

37. The plaintiff's claims are frivolous. Therefore, the Defendant is entitled to recover costs and attorneys' fees.

WHEREFORE, Defendant, Board of School Trustees of the Wawasee Community School Corporation, by counsel, requests that this Court enter a judgment in its favor and against the Plaintiff, that Plaintiff take nothing by way of her Complaint, for costs of this action, and for all other just and proper relief in the premises.



**JURY DEMAND**

Defendant demands a trial by jury on all issues alleged pursuant to Rule 38(b) of the Federal Rules of Civil Procedure.

Respectfully submitted,

HUNT SUEDHOFF KALAMAROS LLP

By: /s/ Lyle R. Hardman

Lyle R. Hardman #16056-49

205 W. Jefferson Blvd., Suite 300

P.O. Box 4156

South Bend, IN 46634-4156

Telephone: (574) 232-4801

Fax: (574) 232-9736

Email: [lhardman@hsk-law.com](mailto:lhardman@hsk-law.com)

Attorney for Defendant

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the 4<sup>th</sup> day of April, 2019, I electronically filed the above and foregoing document with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the parties who are registered with the system.

/s/ Lyle R. Hardman

Lyle R. Hardman #16056-49