

discrimination lawsuit based upon Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991.

3. In response to Plaintiff's Amended Complaint, paragraph 2, Defendant asserts that said paragraph is a statement of Plaintiff's case, to which no response is required. To the extent that the paragraph can be construed to constitute allegations of material fact to which a response is required, the allegations are denied.
4. In response to Plaintiff's Amended Complaint, paragraph 3, Defendant admits that this Court has original jurisdiction over cases which arise under Title VII of the Civil Rights Act of 1964, § 701 *et seq.*, as amended. Defendant asserts that the allegations contained in this paragraph to establish jurisdiction in this matter are conclusions of law to which no response is required. Defendant further asserts that this Honorable Court has jurisdiction over this action with regard only to the Plaintiff's claims for which administrative remedies have been exhausted. Defendant denies that 28 U.S.C. § 1341(4) provides this court with jurisdiction over this case. 28 U.S.C. § 1341(4) is a non-existent statute. Furthermore, 28 U.S.C. § 1341 pertains to the jurisdiction of district courts in state tax cases.
5. In response to Plaintiff's Amended Complaint, paragraph 4, Defendant asserts that this paragraph constitutes a claim for relief to which no response is required. To the extent that the paragraph can be construed to constitute allegations of material fact to which a response is required, the allegations are denied.
6. In response to Plaintiff's Amended Complaint, paragraph 5, Defendant asserts that this paragraph constitutes a claim for relief to which no response is required. To the extent that

the paragraph can be construed to constitute allegations of material fact to which a response is required, the allegations are denied.

7. In response to Plaintiff's Amended Complaint, paragraph 6, Defendant admits that venue is proper in the Western District of Texas, El Paso Division, as El Paso County is the county where Defendant maintains a business location.
8. In response to Plaintiff's Amended Complaint, paragraph 7, Defendant asserts that the allegations contained in this paragraph to establish jurisdiction in this matter are conclusions of law to which no response is required. Defendant further asserts that this Honorable Court has jurisdiction over this action with regard only to the Plaintiff's claims for which administrative remedies have been exhausted.
9. In response to Plaintiff's Amended Complaint, paragraph 8, Defendant asserts that Plaintiff has identified herself as a Hispanic. Defendant admits that Plaintiff is an employee of the Department of Homeland Security and its predecessor agency, United States Customs Service and as such, Plaintiff is a federal employee. Defendant denies the remainder of the allegations contained therein.
10. In response to Plaintiff's Amended Complaint, paragraph 9, Defendant admits the allegations contained therein.
11. In response to Plaintiff's Amended Complaint, paragraph 10, Defendant denies that Plaintiff has suffered any discrimination, harassment or retaliation and, therefore, has not suffered any injuries as a result of said alleged discrimination/retaliation/harassment.
12. In response to Plaintiff's Amended Complaint, paragraph 11, Defendant admits that more than three hundred and sixty (360) days have passed since Plaintiff initially filed her formal

complaint of discrimination with the Equal Employment Opportunity Commission. Defendant denies that said filing is sufficient to establish jurisdiction in this Court for all of the allegations made by Plaintiff.

13. In response to Plaintiff's Amended Complaint, paragraph 12, Defendant admits the allegations contained therein.
14. In response to Plaintiff's Amended Complaint, paragraph 13, Defendant asserts that the allegations contained in this paragraph are an attempt to establish Jurisdiction in this matter which are conclusions of law to which no response is required. Defendant admits that Plaintiff filed a formal Complaint of Discrimination with the EEOC on November 21, 2002. Defendant admits that Plaintiff amended her complaint of discrimination twice. Defendant admits that Plaintiff withdrew her request for a hearing before the EEOC Administrative Judge. Defendant admits that more than two years elapsed from the time that Plaintiff filed her complaint with the EEO and the filing of her Complaint before this Honorable Court. Defendant admits that more two years since Plaintiff's last complaint was amended and more than seven months elapsed from the time that Plaintiff requested a Final Agency Decision and the filing of her Original Complaint before this Honorable Court. Defendant denies that Plaintiff's actions were sufficient to establish jurisdiction in this Court for all of the allegations made by Plaintiff. Defendant admits that Plaintiff filed a second EEO complaint on or about July 10, 2006. Defendant admits that Plaintiff had requested a hearing, but that the hearing was rendered moot upon the filing of this Amended Complaint.
15. In response to Plaintiff's Amended Complaint, paragraph 14, Defendant admits the allegations contained therein.

16. In response to Plaintiff's Amended Complaint, paragraph 15, Defendant denies the allegations contained therein.
17. In response to Plaintiff's Amended Complaint, paragraph 16, Defendant denies the veracity of the allegations contained therein.
18. In response to Plaintiff's Amended Complaint, paragraph 17, Defendant denies the allegations contained therein.
19. In response to Plaintiff's Amended Complaint, paragraph 18, Defendant denies the allegations contained therein.
20. In response to Plaintiff's Complaint, paragraph 19, Defendant admits that Plaintiff applied, and was not selected, for the position of Intelligence Research Specialist (IRS). Defendant denies the remainder of the allegations contained therein.
21. In response to Plaintiff's Amended Complaint, paragraph 20, Defendant admits that Plaintiff's name appeared first on the list of qualified individuals for the Vacancy Announcement number INVSC/01-055 DES. Defendant denies that this signified Plaintiff was the most qualified candidate, as implied by Plaintiff.
22. In response to Plaintiff's Amended Complaint, paragraph 21, Defendant asserts that Plaintiff's allegation is over-broad and lacks sufficient specificity to allow this Defendant to provide an adequate response. Plaintiff references an investigation by the IA Special Investigation Unit. Plaintiff, however, fails to specify which "IA" unit she is referring to. Plaintiff was employed as an Investigative Assistant, which are referred to as IA's. Defendant also has an Office of Internal Audit, which is referred to as OIA. Absent sufficient specificity, this allegation is denied.

23. In response to Plaintiff's Amended Complaint, paragraph 22, Defendant denies the allegations contained therein.
24. In response to Plaintiff's Amended Complaint, paragraph 23, Defendant asserts that Plaintiff's allegation is over-broad and lacks sufficient specificity to allow this Defendant to provide an adequate response. Plaintiff fails to specify which vacancy announcement she is referring to in her general statements. Absent sufficient specificity, this allegation is denied.
25. In response to Plaintiff's Amended Complaint, paragraph 24, Defendant admits that the qualifications identified for Vacancy Announcement number INVSC/01-055 DES were the minimum qualifications for applicants applying for this position.
26. In response to Plaintiff's Amended Complaint, paragraph 25, Defendant asserts that Plaintiff's allegation is over-broad and lacks sufficient specificity to allow this Defendant to provide an adequate response. Plaintiff references an investigation by the "IA". Plaintiff, however, fails to specify which "IA" unit she is referring to. Plaintiff was employed as an Investigative Assistant, which are referred to as IA's. Defendant also has an Office of Internal Audit, which is referred to as OIA. Absent sufficient specificity, this allegation is denied.
27. In response to Plaintiff's Amended Complaint, paragraph 26, Defendant asserts that Plaintiff's allegation is over-broad and lacks sufficient specificity to allow this Defendant to provide an adequate response. Plaintiff fails to identify the individual she alleges to have a conversation with. Absent the identity of this individual, this allegation is denied.
28. In response to Plaintiff's Amended Complaint, paragraph 27, Defendant admits that Plaintiff's assigned duties dictated she appear for work at the United States Attorney's office.

Defendant lacks sufficient information to admit or deny if Plaintiff was interviewed by "SA Moffett" on 19, 2002 or what "SA Moffett" may have stated to Plaintiff on that date. Defendant denies the remainder of the allegations contained therein.

29. In response to Plaintiff's Amended Complaint, paragraph 28, Defendant admits that different training is provided to Intelligence Research Specialists, like Jim Vitale, than is provided to Investigative Assistants, such as Plaintiff.
30. In response to Plaintiff's Amended Complaint, paragraph 29, Defendant asserts that Plaintiff's allegation is over-broad and lacks sufficient specificity to allow this Defendant to provide an adequate response. Plaintiff references an investigation by the "IA." Plaintiff, however, fails to specify which "IA" she is referring to. Plaintiff was employed as an Investigative Assistant, which are referred to as IA's. Defendant also has an Office of Internal Audit, which is referred to as OIA. Absent sufficient specificity, this allegation is denied.
31. In response to Plaintiff's Amended Complaint, paragraph 30, Defendant asserts that Plaintiff's allegation is over-broad and lacks sufficient specificity to allow this Defendant to provide an adequate response. Plaintiff references an investigation by the "IA." Plaintiff, however, fails to specify which "IA" she is referring to. Plaintiff was employed as an Investigative Assistant, which are referred to as IA's. Defendant also has an Office of Internal Audit, which is referred to as OIA. Absent sufficient specificity, this allegation is denied.
32. In response to Plaintiff's Amended Complaint, paragraph 31, Defendant asserts that Plaintiff's allegation is over-broad and lacks sufficient specificity to allow this Defendant to

provide an adequate response. Plaintiff references an investigation by the "IA." Plaintiff, however, fails to specify which "IA" she is referring to. Plaintiff was employed as an Investigative Assistant, which are referred to as IA's. Defendant also has an Office of Internal Audit, which is referred to as OIA. Absent sufficient specificity, this allegation is denied.

33. In response to Plaintiff's Amended Complaint, paragraph 32, Defendant admits that Plaintiff filed an informal complaint with the EEO in October 2002, that a Notice of Right to File a Formal EEO Complaint was issued and that Plaintiff filed a formal complaint on November 21, 2002, and that no Final Agency Decision has been issued. Defendant denies the remainder of the allegations contained therein.
34. In response to Plaintiff's Amended Complaint, paragraph 33, Defendant admits that Plaintiff applied for the position of IRS and that she lacked the minimum qualifications for the position.
35. In response to Plaintiff's Amended Complaint, paragraph 34, Defendant denies the allegations contained therein.
36. In response to Plaintiff's Amended Complaint, paragraph 35, Defendant denies the allegations contained therein.
37. In response to Plaintiff's Amended Complaint, paragraph 36, Defendant admits that Plaintiff submitted a request for documents from the United States Customs Service and that this request was processed in accordance with the requirements of the Freedom of Information Act. Defendant denies the remainder of the allegations contained therein.

38. In response to Plaintiff's Amended Complaint, paragraph 37, Defendant denies the allegations contained therein.
39. In response to Plaintiff's Amended Complaint, paragraph 38, Defendant admits that Plaintiff applied for the position of Criminal Investigator, Vacancy Announcement CFICE-2003-0094 and that she lacked the minimum qualifications for the position. Defendant denies that Plaintiff's qualification for one GS-9 position means Plaintiff was qualified for a different GS-9 position.
40. In response to Plaintiff's Amended Complaint, paragraph 39, Defendant admits that Plaintiff applied for the position of Criminal Investigator, Vacancy Announcement CFICE-2003-0096 and that she did not qualify because she was not within the "local community area" as defined and required for this vacancy announcement.
41. In response to Plaintiff's Amended Complaint, paragraph 40, Defendant asserts that Plaintiff's allegation is over-broad and lacks sufficient specificity to allow this Defendant to provide an adequate response. Plaintiff references an investigation by "IA." Plaintiff, however, fails to specify which "IA" she is referring to. Plaintiff was employed as an Investigative Assistant, which are referred to as IA's. Defendant also has an Office of Internal Audit, which is referred to as OIA. Absent sufficient specificity, this allegation is denied.
42. In response to Plaintiff's Amended Complaint, paragraph 41, Defendant asserts that Plaintiff's allegation is over-broad and lacks sufficient specificity to allow this Defendant to provide an adequate response. Plaintiff references an investigation by "IA." Plaintiff, however, fails to specify which "IA" she is referring to. Plaintiff was employed as an

Investigative Assistant, which are referred to as IA's. Defendant also has an Office of Internal Audit, which is referred to as OIA. Absent sufficient specificity, this allegation is denied.

43. In response to Plaintiff's Amended Complaint, paragraph 42, Defendant asserts that Plaintiff's allegation is over-broad and lacks sufficient specificity to allow this Defendant to provide an adequate response. Plaintiff references an investigation by the "IA." Plaintiff, however, fails to specify which "IA" she is referring to. Plaintiff was employed as an Investigative Assistant, which are referred to as IA's. Defendant also has an Office of Internal Audit, which is referred to as OIA. Absent sufficient specificity, this allegation is denied. Defendant further denies that Plaintiff was "threatened" with taking a polygraph.
44. In response to Plaintiff's Amended Complaint, paragraph 43, Defendant admits that Plaintiff was served with a proposal for suspension. However, Defendant lacks sufficient information to submit a more adequate response to this paragraph. Plaintiff references paragraph 42 of her complaint to establish a factual assertion in this paragraph. Paragraph 42 referred to an investigation by "IA." Plaintiff, however failed to establish which "IA" she was referring to.
45. In response to Plaintiff's Amended Complaint, paragraph 44, Defendant admits the allegations contained therein.
46. In response to Plaintiff's Amended Complaint, paragraph 45, Defendant admits that Plaintiff filed a second, formal EEO Complaint. Defendant denies that this second, formal Complaint is sufficient to establish jurisdiction in this Court as to all the allegations contained in this Amended Complaint.

47. In response to Plaintiff's Amended Complaint, paragraph 46, Defendant admits that Plaintiff was issued a ten day suspension for violation of agency policies.
48. In response to Plaintiff's Amended Complaint, paragraph 47, Defendant denies the allegations contained therein.
49. In response to Plaintiff's Amended Complaint, paragraph 48, Defendant denies the allegations contained therein.
50. In response to Plaintiff's Amended Complaint, paragraph 49, Defendant denies the allegations contained therein.
51. In response to Plaintiff's Amended Complaint, paragraph 50, Defendant denies the allegations contained therein.
52. In response to Plaintiff's Amended Complaint, paragraph 51, Defendant denies the allegations contained therein.
53. In response to Plaintiff's Amended Complaint, paragraph 52, Defendant denies the allegations contained therein.
54. In response to Plaintiff's Amended Complaint, paragraph 53, Defendant denies the allegations contained therein.
55. In response to Plaintiff's Amended Complaint, paragraph 54, Defendant denies the allegations contained therein.
56. In response to Plaintiff's Amended Complaint, paragraph 55, Defendant denies the allegations contained therein.
57. In response to Plaintiff's Amended Complaint, paragraph 56 (a) to (p), Defendant asserts these paragraphs constitute requests for relief to which no response is required. To the extent

that the allegations can be construed to constitute allegations of material fact to which a response is required, the allegations are denied.

58. In response to Plaintiff's Amended Complaint, paragraph 57, Defendant asserts that this paragraph constitutes a request for relief to which no response is required. To the extent that the allegation can be construed to constitute an allegation of material fact to which a response is required, the allegation is denied.
59. In response to Plaintiff's Amended Complaint, paragraph 58, Defendant denies that Plaintiff is entitled to recover attorney's fees in this case.
60. In response to Plaintiff's Amended Complaint, paragraph 59, Defendant asserts that this paragraph is a request for a jury trial, to which no response is required.
61. In response to Plaintiff's Amended Complaint, paragraph 60, Defendant asserts this paragraph constitutes a request for relief to which no response is required. To the extent that the allegation can be construed to constitute an allegation of material fact to which a response is required, the allegation is denied.

II. AFFIRMATIVE DEFENSES

62. Defendant affirmatively asserts that Plaintiff's Amended Complaint fails to state a claim upon which relief can be granted.
63. Defendant affirmatively asserts that the Plaintiff's alleged injuries and/or damages as stated in the Amended Complaint were not caused by any acts of intentional discrimination or retaliation committed by an employee of the United States.
64. Defendant affirmatively asserts that Plaintiff's own acts and/or omissions caused any and all injuries and damages allegedly suffered by Plaintiff.

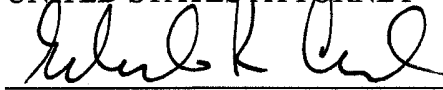
65. Defendant affirmatively asserts that Plaintiff has not suffered the alleged damages claimed by Plaintiff in her Amended Complaint.
66. Defendant affirmatively asserts that Plaintiff has an adequate remedy at law and, therefore, is not entitled to equitable relief.
67. Defendant affirmatively asserts the defense of business necessity.
68. Defendant affirmatively asserts that Defendant had legitimate, non-discriminatory/retaliatory reasons for the actions or inactions complained of by Plaintiff.
69. Defendant affirmatively asserts that Plaintiff has failed to exhaust the administrative remedies available to her as to each claim asserted, prior to filing this lawsuit.
70. Defendant affirmatively asserts that Plaintiff's damages, if any, are limited by statute, including 42 U.S.C. § 1981a(b)(3). Plaintiff cannot recover more than what is provided for by law.
71. Defendant affirmatively asserts that Plaintiff is not entitled to the relief she requests.
72. Defendant affirmatively asserts that Plaintiff has failed to mitigate her damages, if any.
73. Defendant affirmatively asserts that he exercised reasonable care to prevent and to correct promptly any alleged harassing behavior.
74. Defendant affirmatively asserts that Plaintiff unreasonably failed to take advantage of any preventive or corrective opportunities provided by Defendant or to avoid harm otherwise.
75. Defendant affirmatively asserts that to the extent Plaintiff may recover or will recover monies and/or benefits from the United States government for injuries she sustained based on the same set of facts at issue in this case, Defendant is entitled to an offset of any award made herein.

76. Defendant reserves the right to raise additional defenses that become apparent through the factual development of the case.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that upon final hearing thereof, the Court will enter judgment in favor of the Defendant and against Plaintiff in all things, and dismiss the above-styled and numbered cause in its entirety with prejudice, awarding Defendant costs, if any, and all such other and further relief, at law or in equity, to which he may be entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5, I certify that a true and exact copy of the foregoing was served upon all parties of record this 9th day of March, 2007, and deposited same

Via U.S., first-class postage-prepaid

Via U.S., certified mail

Mark Conrad

P.O. Box 8684

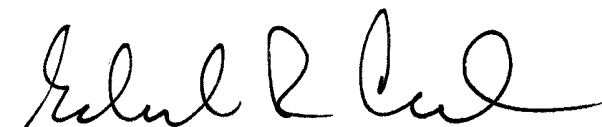
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