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U.S. COURTS
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Attorneys for the Defendants

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO**

| | | |
|------------------------------|---|--------------------------|
| SHERRY R. HUBER, |) | Case No. CIV03-527-S-BLW |
| |) | |
| Plaintiff, |) | |
| |) | ANSWER AND DEMAND |
| vs. |) | FOR JURY TRIAL |
| |) | |
| IDA-WEST ENERGY COMPANY, and |) | |
| IDAHO POWER COMPANY, |) | |
| |) | |
| Defendants. |) | |
| _____ | | |

The Defendants, Ida-West Energy Company and Idaho Power Company, by and through their counsel of record, Gjording & Fouser, PLLC, and Hall, Farley, Oberrecht & Blanton, P.A., hereby admit, deny and allege as follows:

FIRST DEFENSE

I.

The Plaintiff's Complaint and Demand for Jury Trial ("Complaint") fails to state a claim against Defendants upon which relief can be granted.

SECOND DEFENSE

II.

Defendants deny each and every allegation contained in the Complaint which is not specifically admitted or qualified in this Answer and Demand for Jury Trial.

III.

Answering paragraph 1, Defendants admit this is an action for damages and equitable relief, but deny any liability for discrimination under the statutes listed.

IV.

Answering paragraph 2, Defendants admit that the federal District Court has jurisdiction under federal law.

V.

Answering paragraph 3, Defendants admit that venue is proper in the federal District Court.

VI.

Answering paragraph 4, upon information and belief, Defendants admit that the Plaintiff is an Ada County resident.

VII.

Answering paragraph 5, Defendants admit the same.

VIII.

Answering paragraph 6, Defendants admit the same.

IX.

Answering paragraph 7, Defendants admit that the actions of employees while acting in the course and scope of their employment are the legal responsibility of the entity employing them but without further specifics of precisely which acts are allegedly imputed, deny the remainder of the allegations contained therein.

X.

Answering paragraph 8, Defendants admit that IWE is a wholly owned subsidiary of IdaCorp and is in the business of developing, constructing and operating energy producing facilities but deny that IWE markets and sells power produced by those facilities throughout the United States.

XI.

Answering paragraph 9, Defendants admit the same.

XII.

Answering paragraph 10, Defendants admit that at IWE, the Plaintiff was responsible for developing and maintaining the hydro operations staff and procedures and was Manager of Hydro Operations for IWE and Vice President of Ida-West Operating Services, Inc. but deny the remainder of the allegations contained therein.

XIII.

Answering paragraph 11, Defendants admit the same.

XIV.

Answering paragraph 12, Defendants admit that Henry Huber shared a statement made by an employee's spouse about Mr. Hill but deny the remainder of the allegations contained therein.

XV.

Answering paragraph 13, Defendants deny the same.

XVI.

Answering paragraph 14, Defendants admit that Hill received reports from the Huber employees concerning her management style and admit that Hill counseled Huber on her management style but deny the remainder of the allegations contained therein.

XVII.

Answering paragraph 15, Defendants admit that Huber spoke with Jan Packwood in January 2000 and that Jan Packwood is a member of the Board of Directors of IWE, but Defendants deny that Huber complained of retaliation and deny the remainder of the allegations contained therein.

XVIII.

Answering paragraph 16, Defendants admit that in 2000 a new position was created entitled Director of Engineering, Regulatory Affairs and Hydro Operations, and that when this position was created Blaine Graff was selected as the most qualified individual to fill the position, and that following creation of this position Huber reported to Blaine Graff. Defendants deny the remainder of the allegations contained therein.

XIX.

Answering paragraph 17, Defendants admit that Huber filed a complaint with the Idaho Human Rights Commission and the Equal Employment Opportunity Commission.

XX.

Answering paragraph 18, Defendants admit that Hill received a written complaint from Gray but deny the remainder of the allegations contained therein.

XXI.

Answering paragraph 19, Defendants admit that Hill prepared a "Special Performance Review" addressing performance issues that were a concern to IWE but deny the remainder of the allegations contained therein.

XXII.

Answering paragraph 20, Defendants are without sufficient information to admit or deny the allegations contained therein; therefore, Defendants deny the same.

XXIII.

Answering paragraph 21, Defendants admit that Huber applied for long term disability benefits.

XXIV.

Answering paragraph 22, Defendants deny the same.

XXV.

Answering paragraph 23, Defendants admit that Huber offered to return to work part time but a condition of her offer was that she not be required to comply with the performance conditions outlined in the Special Performance Review upon her return to work. Defendants deny the remainder of the allegations contained therein.

XXVI.

Answering paragraph 24, Defendants admit that IWE refused to allow Huber to return to work unless she agreed to the performance conditions outlined in the Special Performance Review but deny the remainder of the allegations contained therein.

XXVII.

Answering paragraph 25, Defendants admit that Huber filed a second charge of discrimination with the Idaho Human Rights Commission and the Equal Employment Opportunity Commission.

XXVIII.

Answering paragraph 26, Defendants deny the same.

XXIX.

Answering paragraph 27, Defendants deny the same.

XXX.

Answering paragraph 28, Defendants reallege the allegations contained in answers to paragraphs 1 through 27 of the Plaintiff's Complaint as if the same were set forth in full herein.

XXXI.

Answering paragraph 29, Defendants deny the same.

XXXII.

Answering paragraph 30, Defendants deny the same.

XXXIII.

Answering paragraph 31, Defendants deny the same.

XXXIV.

Answering paragraph 32, Defendants reallege the allegations contained in answers to paragraphs 1 through 31 of the Plaintiff's Complaint as if the same were set forth in full herein.

XXXV.

Answering paragraph 33, Defendants admit a Special Performance Review was prepared but deny the remaining allegations.

XXXVI.

Answering paragraph 34, Defendants deny the same.

XXXVII.

Answering paragraph 35, Defendants admit that Huber offered to return to work part time but that a condition of her offer was that she not be subject to the performance requirements of the Special Performance Review.

XXXVIII.

Answering paragraph 36, Defendants admit that IWE required Huber to agree to comply with certain performance requirements and to improve certain aspects of her performance, as outlined in the Special Performance Review, as a condition of returning to work, but deny the remainder of the allegations contained therein.

XXXIX.

Answering paragraph 37, Defendants deny the same.

XL.

Answering paragraph 38, Defendants deny the same.

XLII.

Answering paragraph 39, Defendants reallege the allegations contained in answers to paragraphs 1 through 38 of the Plaintiff's Complaint as if the same were set forth in full herein.

XLIII.

Answering paragraph 40, Defendants are without sufficient information to admit or deny Huber's age at the time of her termination; therefore, Defendants deny the same and also deny the remainder of the allegations contained therein.

XLIV.

Answering paragraph 41, Defendants deny the same.

XLV.

Answering paragraph 42, Defendants deny the same.

XLVI.

Answering paragraph 43, Defendants deny the same.

XLVII.

Answering paragraph 44, Defendants reallege the allegations contained in answers to paragraphs 1 through 43 of the Plaintiff's Complaint as if the same were set forth in full herein.

XLVIII.

Answering paragraph 45, Defendants deny the same.

XLIX.

Answering paragraph 46, Defendants deny the same.

XLX.

Answering paragraph 47, Defendants deny the same.

L.

Answering paragraph 48, Defendants deny the same.

LI.

Answering paragraph 49, Defendants deny the same.

LII.

Answering paragraph 50, Defendants deny the same.

LIII.

Answering paragraph 51, Defendants reallege the allegations contained in answers to paragraphs 1 through 50 of the Plaintiff's Complaint as if the same were set forth in full herein.

LIV.

Answering paragraph 52, Defendants deny the same.

LV.

Answering paragraph 53, Defendants admit that Mr. Graff became Director of Engineering, Regulatory Affairs and Hydro Operations, and that Huber was supervised directly by Mr. Graff rather than Mr. Hill, but deny the remainder of the allegations contained therein.

LVI.

Answering paragraph 54, Defendants deny the same.

LVII.

Answering paragraph 55, Defendants deny the same.

LVIII.

Answering paragraph 56, Defendants deny the same.

LIX.

Answering paragraph 57, Defendants reallege the allegations contained in answers to paragraphs 1 through 56 of the Plaintiff's Complaint as if the same were set forth in full herein.

LX.

Answering paragraph 58, Defendants deny the same.

LXI.

Answering paragraph 59, Defendants deny the same.

LXII.

Answering paragraph 60, Defendants reallege the allegations contained in answers to paragraphs 1 through 59 of the Plaintiff's Complaint as if the same were set forth in full herein.

LXIII.

Answering paragraph 61, Defendants deny the same.

LXIV.

Answering paragraph 62, Defendants deny the same.

LXV.

Answering paragraph 63, Defendants deny the same.

LXVI.

Answering paragraph 64, Defendants deny the same.

LXVII.

Answering paragraph 65, Defendants deny the same.

LXVIII.

Answering paragraph 66, Defendants deny the same.

LXIX.

Answering paragraph 67, Defendants deny the same.

LXX.

Answering paragraph 68, Defendants deny the same.

LXXI.

Answering paragraph 69, Defendants deny the same.

LXXII.

Answering paragraph 70, Defendants deny the same.

LXXIII.

Answering paragraph 71, Defendants deny the same.

LXXIV.

Answering paragraph 72, Defendants deny the same.

LXXV.

Answering paragraph 73, Defendants deny the same.

LXXVI.

Answering paragraph 74, Defendants deny the same.

LXXVII.

Answering paragraph 75, Defendants deny the same.

FIRST AFFIRMATIVE DEFENSE

LXXVIII.

Any actions taken against the Plaintiff were taken for legitimate, non-discriminatory reasons.

SECOND AFFIRMATIVE DEFENSE

LXXIX.

The Plaintiff is responsible for any damage caused because of her action in refusing to adhere to reasonable work performance requirements.

THIRD AFFIRMATIVE DEFENSE

LXXX.

Any decisions made concerning the Plaintiff's compensation were based on legitimate business factors and not on gender.

FOURTH AFFIRMATIVE DEFENSE

LXXXI.

The Plaintiff's claim under the Equal Pay Act must fail because the Plaintiff cannot show that she performed equal or comparable work as compared to any male employee in a comparable position at IWE.

FIFTH AFFIRMATIVE DEFENSE

LXXXII.

Idaho Power Company is not a proper party defendant in this matter and must be dismissed.

SIXTH AFFIRMATIVE DEFENSE

LXXXIII.

The Plaintiff is required to mitigate any damages and failed to seek alternative employment to mitigate alleged damages, if any.

SEVENTH AFFIRMATIVE DEFENSE

LXXXIX.

Through her own acts, omissions or admissions, the Plaintiff has waived any rights to the causes of action pled in her Complaint, and she is estopped from pursuing them in this litigation.

EIGHTH AFFIRMATIVE DEFENSE

LC.

The damages that the Plaintiff alleges, which are not admitted and which are expressly denied, are damages or injuries resulting from the Plaintiff's own fault or negligence, which either bars or reduces the claim in an amount to be determined by the trier of fact.

NINTH AFFIRMATIVE DEFENSE

LCI.

The Defendants assert that liability, if any, and the Plaintiff's damages, if any, must be reduced or limited due to the Plaintiff's workplace misconduct and the after acquired evidence doctrine.

TENTH AFFIRMATIVE DEFENSE

LCII.

The Defendants assert that (i) the Plaintiff failed to avail herself of opportunities to avoid harm, (ii) the Defendants took appropriate action to prevent unlawful conduct in the workplace and (iii) the Plaintiff cannot, therefore, establish liability.

RESERVATION OF RIGHTS

Discovery is ongoing, the result of which may reveal additional defenses to the Defendants. Defendants reserve the right to amend this Answer and Demand for Jury Trial if appropriate.

REQUEST FOR ATTORNEY FEES

As a result of the filing of the Plaintiff's Complaint, the Defendants have been required to obtain legal counsel to defend said action and are entitled to recover attorney fees pursuant to the provisions contained in Idaho Code §12-121.

DEMAND FOR JURY TRIAL

The Defendants respectfully demand a trial by jury on all issues pursuant to Rule 38(b) of the Federal Rules of Civil Procedure.

WHEREFORE, Defendants pray for judgment as follows:

1. That the Plaintiff's Complaint be dismissed in its entirety, and that the Plaintiff takes nothing thereby;
2. For costs, including a reasonable attorney fee to be set by the Court; and
3. For any and all further relief as the Court may deem just and equitable.

DATED this 15 day of December, 2003.

GJORDING & FOUSER, PLLC



TRUDY HANSON FOUSER
Attorneys for Defendants

Tamsen L. Leachman
HALL, FARLEY, OBERRECHT
& BLANTON, P.A.

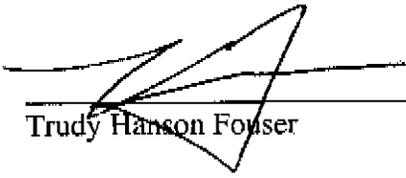
Attorneys for the Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 15 day of December, 2003, a true and correct copy of the foregoing was served upon the following individual(s) by the means indicated:

John C. Lynn
LYNN, SCOTT & HACKNEY, P.L.L.C.
500 West Bannock
Boise, ID 83702

- U.S. mail, postage prepaid
- express mail
- hand delivery
- facsimile



Trudy Hanson Fouser