

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JAMES VANDEN BOOGART,
BARBARA VANDEN BOOGART,
JON MOREHOUSE and
LORI MOREHOUSE,

Plaintiffs,

Case No: 12-CV-491

v.

TODD CHRISTENSEN,
MARK ROBERTS and
TOWN OF MORRISON,

Defendants.

**TODD CHRISTENSEN, MARK ROBERTS AND TOWN OF MORRISON'S ANSWER
AND AFFIRMATIVE DEFENSES TO THE COMPLAINT**

Todd Christensen, Mark Roberts and Town of Morrison, by their attorneys, Crivello Carlson, S.C., respectfully submit this Answer and Affirmative Defenses to the Complaint dated May 17, 2012 as follows:

1. Answering paragraph 1 of the Complaint, the Defendants deny.
2. Answering paragraph 2 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.
3. Answering paragraph 3 of the Complaint, the Defendants deny.
4. Answering paragraph 4 of the Complaint, the Defendants deny.

5. Answering paragraph 5 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

6. Answering paragraph 6 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

7. Answering paragraph 7 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

8. Answering paragraph 8 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

9. Answering paragraph 9 of the, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

10. Answering paragraph 10 of the Complaint, the Defendants admit.

11. Answering paragraph 11 of the Complaint, the Defendants deny that the plaintiffs have fully and accurately described the duties of Christensen. As a further answer, the defendants deny knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

12. Answering paragraph 12 of the Complaint, the Defendants admit.

13. Answering paragraph 13 of the Complaint, the Defendants deny that the plaintiffs have fully and accurately described the duties of Roberts. As a further answer, the defendants deny

knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

14. Answering paragraph 14 of the Complaint, the Defendants admit.

15. Answering paragraph 15 of the Complaint, the Defendants admit.

16. Answering paragraph 16 of the Complaint, the Defendants admit.

17. Answering paragraph 17 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

18. Answering paragraph 18 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

19. Answering paragraph 19 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

20. Answering paragraph 20 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

21. Answering paragraph 21 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

22. Answering paragraph 22 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

23. Answering paragraph 23 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

24. Answering paragraph 24 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

25. Answering paragraph 25 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively allege that the United States Supreme Court ruling *City of Ladue v. Gilleo*, 512 U.S. 43, 57 (1994), speaks for itself.

26. Answering paragraph 26 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively allege that the United States Supreme Court ruling *City of Ladue v. Gilleo*, 512 U.S. 43, 57 (1994), speaks for itself.

27. Answering paragraph 27 of the Complaint, the Defendants deny. As a further answer, the Defendants affirmatively maintain that the Plaintiffs have failed to accurately completely quote the subject ordinance.

28. Answering paragraph 28 of the Complaint, the Defendants deny. As a further answer, the Defendants affirmatively maintain that the Plaintiffs have failed to accurately completely quote the subject ordinance.

29. Answering paragraph 29 of the Complaint, the Defendants deny. As a further answer, the Defendants affirmatively maintain that the Plaintiffs have failed to accurately completely quote the subject ordinance.

30. Answering paragraph 30 of the Complaint, the Defendants deny. As a further answer, the Defendants affirmatively maintain that the Plaintiffs have failed to accurately completely quote the subject ordinance.

31. Answering paragraph 31 of the Complaint, the Defendants deny.

32. Answering paragraph 32 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

33. Answering paragraph 33 of the Complaint, the Defendants admit.

34. Answering paragraph 34 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

35. Answering paragraph 35 of the Complaint, the Defendants admit that at an April 15, 2010, Town Board meeting, the Town Board authorized the hiring of an individual for the position of Code Enforcer. As a further answer, the Defendants each and every remaining allegation contained therein.

36. Answering paragraph 36 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

37. Answering paragraph 37 of the Complaint, the Defendants admit.

38. Answering paragraph 38 of the, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

39. Answering paragraph 39 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

40. Answering paragraph 40 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

41. Answering paragraph 41 of the Complaint, the Defendants deny.

42. Answering paragraph 42 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

43. Answering paragraph 43 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

44. Answering paragraph 44 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

45. Answering paragraph 45 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the

same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

46. Answering paragraph 46 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

47. Answering paragraph 47 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

48. Answering paragraph 48 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

49. Answering paragraph 49 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

50. Answering paragraph 50 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

51. Answering paragraph 51 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

52. Answering paragraph 52 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

53. Answering paragraph 53 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

54. Answering paragraph 54 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

55. Answering paragraph 55 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

56. Answering paragraph 56 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

57. Answering paragraph 57 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

58. Answering paragraph 58 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

59. Answering paragraph 59 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

60. Answering paragraph 60 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

61. Answering paragraph 61 of the Complaint, the Defendants admit.

62. Answering paragraph 62 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

63. Answering paragraph 63 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

64. Answering paragraph 64 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

65. Answering paragraph 65 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

66. Answering paragraph 66 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

67. Answering paragraph 67 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

68. Answering paragraph 66 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

69. Answering paragraph 69 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

70. Answering paragraph 70 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

71. Answering paragraph 71 of the Complaint, the Defendants admit that the citation that was issued required Jon Morehouse to appear in person at a location in Green Bay on July 19, 2012 at 7:00 p.m. However, these Defendants affirmatively maintain that the citation has since been dismissed and no personal appearance was required at anytime by Jon Morehouse.

72. Answering paragraph 72 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

73. Answering paragraph 73 of the Complaint, the Defendants admit.

74. Answering paragraph 74 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

75. Answering paragraph 75 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

76. Answering paragraph 76 of the Complaint, the Defendants deny.

77. Answering paragraph 77 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

78. Answering paragraph 78 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

79. Answering paragraph 79 of the Complaint, the Defendants deny.

80. Answering paragraph 80 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the

same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

81. Answering paragraph 81 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

82. Answering paragraph 82 of the Complaint, the Defendants admit.

83. Answering paragraph 83 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibit speaks for itself.

84. Answering paragraph 84 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon. As a further answer, the Defendants affirmatively maintain that the exhibits speak for themselves.

85. Answering paragraph 85 of the Complaint, the Defendants deny.

86. Answering paragraph 86 of the Complaint, the Defendants admit.

87. Answering paragraph 87 of the Complaint, the Defendants deny.

88. Answering paragraph 88 of the Complaint, the Defendants deny.

89. Answering paragraph 89 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon

90. Answering paragraph 90 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon.

91. Answering paragraph 91 of the Complaint, the Defendants lack knowledge and information sufficient to form a belief as to the allegations contained therein, and therefore deny the same putting the Plaintiffs specifically to their proof thereon

92. Answering paragraph 92 of the Complaint, the Defendants deny.

93. Answering paragraph 93 of the Complaint, the Defendants deny.

94. Answering paragraph 94 of the Complaint, the Defendants deny.

95. Answering paragraph 95 of the Complaint, the Defendants deny.

96. Answering paragraph 96 of the Complaint, the Defendants deny.

97. Answering paragraph 97 of the Complaint, the Defendants restate and re-allege all answers, averments, denials and affirmative defenses contained in their Answer.

98. Answering paragraph 98 of the Complaint, the Defendants admit. As a further answer, the Defendants deny that the Plaintiffs have fully and accurately described the First Amendment to the United States Constitution.

99. Answering paragraph 99 of the Complaint, the Defendants admit. As a further answer, the Defendants deny that the Plaintiffs have fully and accurately described the holding in *Lovell v. City of Griffin*, 303 U.S. 444, 450 (1938).

100. Answering paragraph 100 of the Complaint, the Defendants admit. As a further answer, the Defendants deny that the Plaintiffs have fully and accurately described the holding in *City of Ladue v. Gilleo*, 512 U.S. 43, 48.

101. Answering paragraph 101 of the Complaint, the Defendants admit. As a further answer, the Defendants deny that the Plaintiffs have fully and accurately described the holding in *City of Ladue v. Gilleo*, 512 U.S. 43, 48.

102. Answering paragraph 102 of the Complaint, the Defendants deny.

103. Answering paragraph 103 of the Complaint, the Defendants deny.

104. Answering paragraph 104 of the Complaint, the Defendants deny.

105. Answering paragraph 105 of the Complaint, the Defendants admit.

106. Answering paragraph 106 of the Complaint, the Defendants admit.

107. Answering paragraph 107 of the Complaint, the Defendants deny.

108. Answering paragraph 108 of the Complaint, the Defendants deny.

109. Answering paragraph 109 of the Complaint, the Defendants deny.

110. Answering paragraph 110 of the Complaint, the Defendants deny.

111. Answering paragraph 111 of the Complaint, the Defendants admit.

112. Answering paragraph 112 of the Complaint, the Defendants admit.

113. Answering paragraph 113 of the Complaint, the Defendants deny.

114. Answering paragraph 114 of the Complaint, the Defendants deny.

115. Answering paragraph 115 of the Complaint, the Defendants restate and re-allege all answers, averments, denials and affirmative defenses contained in their Answer.

116. Answering paragraph 116 of the Complaint, the Defendants admit.

117. Answering paragraph 117 of the Complaint, the Defendants deny.

118. Answering paragraph 118 of the Complaint, the Defendants deny.

119. Answering paragraph 119 of the Complaint, the Defendants deny.

120. Answering paragraph 120 of the Complaint, the Defendants deny.

121. Answering paragraph 121 of the Complaint, the Defendants deny.
122. Answering paragraph 122 of the Complaint, the Defendants deny.
123. Answering paragraph 123 of the Complaint, the Defendants deny.
124. Answering paragraph 124 of the Complaint, the Defendants deny.
125. Answering paragraph 125 of the Complaint, the Defendants deny.
126. Answering paragraph 126 of the Complaint, the Defendants deny.
127. Answering paragraph 127 of the Complaint, the Defendants deny.

AFFIRMATIVE DEFENSES

As and for affirmative defenses to the Complaint, the Defendants, Todd Christensen, Mark Roberts and Town of Morrison, respectfully submit the following:

- A. the injuries and damages sustained by the plaintiffs if any, were caused in whole or in part by the acts or omissions of the plaintiffs;
- B. the plaintiffs have failed to mitigate their damages;
- C. the injuries and damages sustained by the plaintiffs, if any, were caused in whole or in part by the acts and omissions of persons other than the answering defendants;
- D. the plaintiffs' Complaint contains claims which fail to state a claim upon which relief may be granted against the answering defendants;
- E. the plaintiffs are prevented from a right of recovery against these defendants because of an intervening or superseding cause;
- F. the defendants are immune from suit under common law and statutory immunities;
- G. all of the acts of these answering defendants were in good faith and not motivated by malice or the intent to harm;
- H. the defendants are entitled to immunities, including qualified immunity;
- I. to the extent that the plaintiffs present claims under Wisconsin state law, they are subject to the limitations, prerequisites and immunities contained within Wisconsin Statutes § 893.80;

J. the plaintiffs failed to exhaust their available remedies in forums other than the United States District Court prior to bringing this suit; and

K. the plaintiffs' claim for punitive damages is contrary to the law and constitution.

WHEREFORE, these answering Defendants respectfully request judgment as follows:

1. for a dismissal of the Plaintiffs' Complaint upon its merits;
2. for reasonable actual attorney's fees pursuant to 42 U.S.C. § 1988(3);
3. for the costs, disbursements and fees of this action; and
4. for such other relief as this Court deems just and equitable.

DEFENDANTS DEMAND A JURY

Dated this 23rd day of July, 2012.

By: /s/ Samuel C. Hall, Jr.
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