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Attorneys for Defendant  
Board of Trustees of California State University,  
which is the State of California acting in its higher  
education capacity

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PETER FRETWELL,

Plaintiff,

v.

BOARD OF TRUSTEES OF THE  
CALIFORNIA STATE UNIVERSITY

Defendants.

Case No. 20-cv-08258-MMC

**Defendant Board of Trustees of  
California State University's Answer  
to Plaintiff's Complaint**

JURY TRIAL DEMANDED

Assigned to: Hon. Maxine M. Chesney

Defendant Board of Trustees of California State University answers the Plaintiff's  
Complaint, paragraph by paragraph, as follows:

1. Admit.
2. Admit that Defendant employs fifteen or more persons. As to the remaining allegations, denied upon lack of information or belief.
3. This paragraph contains no factual allegations and as such, no response is required.
4. This paragraph contains no factual allegations and as such, no response is required.

5. This paragraph contains no factual allegations and as such, no response is required.
6. This paragraph contains no factual allegations and as such, no response is required.
7. Denied upon lack of information or belief.
8. Admit
9. Admit.
10. This paragraph contains no factual allegations and as such, no response is required.
11. Denied upon lack of information or belief.
12. Denied upon lack of information or belief.
13. Denied upon lack of information or belief.
14. Denied upon lack of information or belief.
15. Denied upon lack of information or belief.
16. Denied upon lack of information or belief.
17. Denied upon lack of information or belief.
18. Denied upon lack of information or belief.
19. Denied upon lack of information or belief.
20. Denied upon lack of information or belief.
21. Denied upon lack of information or belief.
22. Denied upon lack of information or belief.
23. Denied upon lack of information or belief.
24. Denied upon lack of information or belief.
25. Denied upon lack of information or belief.
26. Denied upon lack of information or belief.
27. Denied upon lack of information or belief.
28. Denied upon lack of information or belief.
29. Denied upon lack of information or belief.
30. Denied upon lack of information or belief.
31. Denied upon lack of information or belief.

32. Denied upon lack of information or belief.
33. Denied upon lack of information or belief.
34. Denied upon lack of information or belief.
35. Denied upon lack of information or belief.
36. Denied upon lack of information or belief.
37. Denied upon lack of information or belief.
38. Denied upon lack of information or belief.
39. Denied.
40. Denied upon lack of information or belief.
41. Denied upon lack of information or belief.
42. Denied.
43. Denied.
44. Denied.
45. Denied upon lack of information or belief.
46. Denied upon lack of information or belief.
47. Denied upon lack of information or belief.
48. Denied upon lack of information or belief.
49. Denied upon lack of information or belief.
50. Denied upon lack of information or belief.
51. Denied upon lack of information or belief.
52. Denied upon lack of information or belief.
53. Denied upon lack of information or belief.
54. Denied upon lack of information or belief.
55. Denied upon lack of information or belief.
56. Denied upon lack of information or belief.
57. Denied upon lack of information or belief.
58. Denied upon lack of information or belief.

59. Denied upon lack of information or belief.
60. Denied upon lack of information or belief.
61. Denied upon lack of information or belief.
62. Denied upon lack of information or belief.
63. Denied upon lack of information or belief.
64. Denied upon lack of information or belief.
65. Denied upon lack of information or belief.
66. Denied upon lack of information or belief.
67. Denied.
68. Denied upon lack of information or belief.
69. Denied upon lack of information or belief.
70. Denied upon lack of information or belief.
71. Denied upon lack of information or belief.
72. Denied upon lack of information or belief.
73. Objection. Invades attorney client privilege.
74. Denied upon lack of information or belief.
75. Objection. Invades attorney client privilege.
76. Objection. Invades attorney client privilege.
77. Denied upon lack of information or belief.
78. Denied.
79. Denied.
80. Denied upon lack of information or belief.
81. Denied.
82. Denied upon lack of information or belief.
83. Denied upon lack of information or belief.
84. Denied upon lack of information or belief.
85. Denied upon lack of information or belief.

86. Admit a meeting occurred, deny the remainder of the paragraph.
87. Denied upon lack of information or belief.
88. Denied upon lack of information or belief.
89. Denied upon lack of information or belief.
90. Denied.
91. Denied upon lack of information or belief.
92. Denied upon lack of information or belief.
93. Denied upon lack of information or belief.
94. Denied upon lack of information or belief.
95. Denied upon lack of information or belief.
96. Denied upon lack of information or belief.
97. Denied upon lack of information or belief.
98. Denied upon lack of information or belief.
99. Denied upon lack of information or belief.
100. Denied upon lack of information or belief.
101. Denied upon lack of information or belief.
102. Denied upon lack of information or belief.
103. Denied upon lack of information or belief.
104. Denied upon lack of information or belief.
105. Denied upon lack of information or belief.
106. Denied upon lack of information or belief.
107. Denied upon lack of information or belief.
108. Denied upon lack of information or belief.
109. Denied upon lack of information or belief.
110. Denied upon lack of information or belief.
111. Denied upon lack of information or belief.
112. Denied.

113. Denied.
114. Denied.
115. Denied upon lack of information or belief.
116. Denied upon lack of information or belief.
117. Denied.
118. Denied.
119. Denied upon lack of information or belief.
120. Denied.
121. Denied upon lack of information or belief.
122. Denied upon lack of information or belief.
123. Denied upon lack of information or belief.
124. Denied upon lack of information or belief.
125. Denied upon lack of information or belief.
126. Denied.
127. Denied upon lack of information or belief.
128. Admit an advisory audit was requested and obtained. The remainder of the paragraph is denied.
129. Denied upon lack of information or belief.
130. Denied.
131. Denied upon lack of information or belief.
132. Defendant incorporates and re-alleges all prior responses.
133. Denied.
134. Denied.
135. Denied.
136. Defendant incorporates and re-alleges all prior responses.
137. Denied.
138. Denied.

139. Defendant incorporates and re-alleges all prior responses.
140. Denied.
141. Denied.
142. Denied.
143. Defendant incorporates and re-alleges all prior responses.
144. This paragraph contains no factual allegations and as such, no response is required.
145. This paragraph contains no factual allegations and as such, no response is required.
146. Denied.
147. Denied.
148. This paragraph contains no factual allegations and as such, no response is required.
149. Denied.
150. Denied.
151. Denied.
152. This paragraph contains no factual allegations and as such, no response is required.
153. Defendant incorporates and realleges all prior responses.
154. This paragraph contains no factual allegations and as such, no response is required.
155. This paragraph contains no factual allegations and as such, no response is required.
156. This paragraph contains no factual allegations and as such, no response is required.
157. This paragraph contains no factual allegations and as such, no response is required.

158. Denied.
159. Denied.
160. Denied.
161. Denied.
162. Denied.
163. Defendant incorporates and re-alleges all prior responses.
164. This paragraph contains no factual allegations and as such, no response is required.
165. Denied.
166. Denied.
167. Denied.
168. Defendant incorporates and re-alleges all prior responses.
169. This paragraph contains no factual allegations and as such, no response is required.
170. Denied.
171. Denied.
172. Defendant incorporates and re-alleges all prior responses.
173. Denied upon lack of information or belief.
174. Denied.
175. Denied.
176. Denied.
177. Defendant incorporates and re-alleges all prior responses.
178. This paragraph contains no factual allegations and as such, no response is required.
179. Denied.
180. Denied.
181. Denied.



- 182. Denied.
- 183. Denied.
- 184. Denied.
- 185. Denied.

#### AFFIRMATIVE DEFENSES

1. Plaintiff fails to state a claim upon which relief can be granted.
2. Plaintiff's causes of action are barred in whole or in part, to the extent that he ratified conduct attributable to Defendant.
3. The Complaint and claims therein are barred in whole or in part, to the extent Plaintiff failed to exhaust his administrative remedies (both internal and external) and/or statutory prerequisites in a complete and timely manner under applicable law, including but not limited to those set forth in the California Fair Employment and Housing Act (Government Code §§ 12940 *et seq.*) and Title VII.
4. The Complaint and each cause of action alleged therein are barred by the applicable statute(s) of limitation including, but not limited to, those set forth in the provisions of Code of Civil Procedure sections 335.1, 337, 339, and 343, and Government Code sections 12960 and 12965.
5. Defendant alleges that Plaintiff is guilty of laches and unreasonable delay in bringing this action and in asserting any claim against Defendant, and such unreasonable delay is without good cause and substantially prejudices Defendant.
6. Defendant alleges that Plaintiff is guilty of "unclean hands" in the matters set forth in the Complaint, which conduct extinguishes the right to legal and equitable relief in this action.
7. Plaintiff's alleged injuries and damages, if any, were aggravated by Plaintiff's failure to use reasonable diligence to mitigate them, and said failure to mitigate bars Plaintiff's recovery in this action.
8. Defendant alleges that Plaintiff's purported causes of action are barred in whole or in

part, to the extent Plaintiff's unreasonably failed to take advantage of any preventative or corrective opportunities provided by Defendant or to otherwise avoid harm.

9. Defendant alleges the existence of good and legal cause for its actions.
10. All employment actions or treatment accorded Plaintiff were taken for legitimate, non-discriminatory, and non-retaliatory reasons.
11. Plaintiff's complaint is barred in whole or in part by virtue of California Labor Code Sections 2854, 2856 and 2859, to the extent that Plaintiff failed to use ordinary care and diligence in the performance of his duties and failed to comply substantially with the reasonable directions of his employer.
12. The conduct of which Plaintiff complains was a just and proper exercise of management discretion undertaken for a fair and honest reason and regulated by good faith under the conditions then existing.
13. Plaintiff's action is barred by Labor Code section 3601 because Defendant was Plaintiff's employer at the time of this incident and all the conditions of compensation of Labor Code section 3600 are satisfied. Therefore, the provisions of California Labor Code sections 3600 et seq. and 5300 et seq. provide the exclusive remedy for Plaintiff. Coca Cola v. Superior Court, 233 Cal. App. 3d 1273 (1991).
14. Plaintiff was employed as an at-will employee.

WHEREFORE, this answering Defendant prays:

1. That Plaintiff take nothing by the Complaint;
2. That the Complaint be dismissed with prejudice;
3. That Defendant recover its costs of suit therein, including its reasonable attorneys' fees.

Dated: March 16, 2021

**CATHY ARIAS LAW**

By: *Catherine Arias*  
CATHY ARIAS  
*Attorneys for Defendant*