

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

SUSHMA JONES,

CASE NO.: 1:23-cv-11814-TLL-PTM

Plaintiff,

HON. Thomas L. Ludington

v.

THE DOW CHEMICAL COMPANY,

Defendant.

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**DEFENDANT THE DOW CHEMICAL COMPANY'S ANSWER TO
PLAINTIFF'S COMPLAINT, AFFIRMATIVE DEFENSES AND
RELIANCE UPON JURY DEMAND**

Defendant The Dow Chemical Company ("Dow"), hereby Answers Plaintiff's
Complaint as follows:

JURISDICTION

1. At all times relevant to this complaint, PLAINTIFF SUSHMA JONES was a resident of Saginaw, County in the State of Michigan.

ANSWER: Admitted, upon information and belief.

2. DEFENDANT THE DOW CHEMICAL COMPANY is a domestic profit corporation, which has a place of business in Midland, Michigan.

ANSWER: Dow denies that it is a domestic profit corporation. Answering further, Dow is a foreign profit corporation with a place of business in Midland, Michigan.

3. This action is brought in this Court on the basis of federal question jurisdiction, pursuant to Title VII of the Civil Rights Act of 1964, 42 USC 2000e et seq.

ANSWER: Dow does not contest the jurisdiction of this Court.

4. Pursuant to 28 U.S.C §1367, this Court has supplemental jurisdiction over Plaintiff's state law claims.

ANSWER: Dow does not contest the jurisdiction of this Court.

VENUE

5. Venue is proper in the Eastern District of Michigan pursuant to Section 706(f)(3) of Title VII, 42 U.S.C. § 2000e-5(f)(3), because the unlawful employment discrimination giving rise to Plaintiff's claims occurred in this District.

ANSWER: Dow does not contest venue in this Court.

STATEMENT OF FACTS

6. January 10, 2022, Plaintiff, a Black woman, was hired as a Logistics Technician by Defendant.

ANSWER: Dow admits, upon information and belief, that Plaintiff is a Black woman. Dow further admits that Plaintiff was hired as a Logistics Technician on January 10, 2022.

7. The harassment of Plaintiff started on or about March 5, 2022, when Plaintiff was accused of cutting a hose on the machine by the head operator, Don Wilson.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

8. Plaintiff worked with mostly white males, including Wilson.

ANSWER: Dow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and thus neither admits nor denies the allegations.

9. Wilson yelled at Plaintiff to “just clean this s*** up” after chemicals spilled on the floor due to a machine that malfunctioned and overfilled the drum.

ANSWER: Dow admits that Plaintiff was instructed to clean a spill but denies the remaining allegations in this paragraph because they are untrue.

10. After taking another look another head operator, “Eric,” realized that the hose was broken from wear and tear.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

11. The next day, March 6, 2022, Wilson approached Plaintiff again accusing her of cutting the hose and requested that he train her again. When Plaintiff did not agree, Wilson told other operators and turned them against Plaintiff.

ANSWER: Dow admits that Plaintiff was offered additional training but denies the remaining allegations in this paragraph because they are untrue.

12. The other operators would not help Plaintiff with any of her tasks, making her job very hard and stressful because of Wilson's relationship with said operators.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

13. Plaintiff was told that the other operators and Wilson wanted to have Plaintiff demoted and ultimately fired.

ANSWER: Dow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and thus neither admits nor denies the allegations.

14. On March 14, 2022, Plaintiff spoke with her trainer, "Scott," and told him she was being harassed, bullied, and overworked. However, once Plaintiff realized that Scott was not neutral and was taking the side of Wilson, she ended the conversation.

ANSWER: Dow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and thus neither admits nor denies the allegations.

15. The same day Plaintiff met with Moe McGee and Jason Ellision, and her shift was then changed.

ANSWER: Dow admits that Plaintiff met with Messrs. McGee and Ellison and requested a shift change. Dow denies the remaining allegations in this paragraph because they are untrue.

16. Ellison apologized to Plaintiff and said he would be more aware of what was happening with her.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

17. After the meeting, McGee called a staff meeting but none of the wrongdoers attended the meeting.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

18. When McGee asked Wilson why he did not attend the meeting, he replied “f*** that s***.”

ANSWER: Dow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and thus neither admits nor denies the allegations.

19. Several of Plaintiff’s white, male coworkers continued to harass Plaintiff.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

20. In March of 2022, Plaintiff’s doctor noted that Plaintiff had major depressive disorder, anxiety, and told her that she may need to find a different job.

ANSWER: Dow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and thus neither admits nor denies the allegations.

21. In May of 2022, Plaintiff filed several complaints with human resources and several of the complaints were closed, upon information and belief without investigation. Plaintiff was told by a co-worker to re-open the complaints as ethics reports instead.

ANSWER: Dow admits that Plaintiff filed two complaints with Dow's Office of Ethics and Compliance in May and June 2022 respectively. Dow denies the remaining allegations in this paragraph because they are untrue.

22. On May 20, 2022, Plaintiff filed the ethics reports.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

23. On May 23, 2022, Plaintiff went for an occupational visit for work related stress because of the harassment and fear of getting fired, which was weighing heavily on her.

ANSWER: Dow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and thus neither admits nor denies the allegations.

24. Plaintiff's doctor advised her to take off work and put her on medication because of the stress from work.

ANSWER: Dow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and thus neither admits nor denies the allegations.

25. Immediately after Plaintiff reported the harassment, she was moved to a different, less desirable shift by the same supervisor in whom she had confided.

ANSWER: Dow admits Plaintiff's shift was changed at her request. Dow denies the remaining allegations in this paragraph because they are untrue.

26. However, the individuals who were harassing Plaintiff did not receive less-favorable assignments.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

27. On June 19, 2022, upon information and belief, Plaintiff was refused overtime because of the ethics reports she filed against the head operators.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

28. While Plaintiff was walking to the June 23, 2022 staff meeting, operator Ronald Chamberlin stopped her and told her that he just watched the movie Harriet Tubman and that Plaintiff looks like her.

ANSWER: Dow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and thus neither admits nor denies the allegations.

29. This comment triggered Plaintiff because Chamberlain had also told Plaintiff to stop working like a slave a few months prior.

ANSWER: Dow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and thus neither admits nor denies the allegations.

30. Plaintiff reported this comment to her supervisor and she was immediately moved to a different building, again to a less desirable job and shift.

ANSWER: Dow admits Plaintiff complained about a comment made and requested to change buildings. Dow denies the remaining allegations in this paragraph because they are untrue.

31. Defendant purportedly did an investigation and determined that there was a “personality clash” but found no evidence of racial bias.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

32. Plaintiff filed a charge of discrimination with the EEOC on July 28, 2022, on the basis of race and retaliation.

ANSWER: Dow admits that Plaintiff filed a charge with the EEOC on or about July 22, 2022. Dow further admits that in her Charge, Plaintiff alleged race discrimination and retaliation for allegedly reporting race discrimination. Dow denies Plaintiff's claims.

33. On April 27, 2023, Plaintiff received a Right to Sue letter, and this lawsuit followed.

ANSWER: Dow admits that a Notice of Right to Sue was issued by the EEOC on April 27, 2023.

COUNT I
RETALIATION IN VIOLATION OF TITLE VII

34. Plaintiff incorporates by reference all allegations in the preceding paragraphs.

ANSWER: Dow incorporates by reference all preceding paragraphs.

35. At all material times, Defendant was an employer and Plaintiff was an employee covered by, and within the meaning of, Title VII, as amended.

ANSWER: This paragraph states a legal conclusion to which no response is required.

36. A respondeat superior relationship existed because agents of Defendant had the ability to undertake or recommend tangible decisions affecting Plaintiff and the authority to direct all of Plaintiff's daily work activity.

ANSWER: This paragraph states a legal conclusion to which no response is required.

37. Defendant's conduct, as alleged herein, violated Title VII which makes it unlawful to harass or retaliate against an employee for engaging in protected activity.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

38. Plaintiff engaged in protected activity, as more fully laid out in the statement of facts, including, but not limited to when Plaintiff protested and reported harassment to human resources.

ANSWER: This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, Dow denies the allegations in this paragraph because they are untrue.

39. Defendant, through its agents, had knowledge that Plaintiff engaged in protected behavior because she reported the issue directly to agents of Defendant.

ANSWER: This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, Dow denies the allegations in this paragraph because they are untrue.

40. After Plaintiff engaged in protected activity, Defendant's agents thereafter took adverse employment actions against Plaintiff, as alleged in the statement of facts.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

41. Defendant and its agents' unlawful actions were intentional, willful, malicious and/or done with reckless disregard of Plaintiff's rights.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

42. Plaintiff notified Defendant and its agents of the unwelcome conduct and communication; however, Defendant failed to remedy the same.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

43. As a proximate result of Defendant's discriminatory and retaliatory actions, Plaintiff has suffered losses in compensation, earning capacity, humiliation, mental anguish, and emotional distress.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

44. As a result of those actions and consequent harms, Plaintiff has suffered such damages in an amount to be proved at trial.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

45. Plaintiff requests relief as described in the Prayer for Relief below.

ANSWER: The allegations in this paragraph do not call for an answer. Nevertheless, Dow denies that Plaintiff is entitled to any such relief.

COUNT II
RETALIATION IN VIOLATION OF THE ELCRA

46. Plaintiff incorporates by reference all allegations in the preceding paragraphs.

ANSWER: Dow incorporates by reference all preceding paragraphs.

47. At all material times, Plaintiff was an employee, and Defendant was her employer covered by, and within the meaning of, the ELCRA.

ANSWER: This paragraph states a legal conclusion to which no response is required.

48. A respondeat superior relationship existed because agents of Defendant had the ability to undertake or recommend tangible decisions affecting Plaintiff and the authority to direct all of Plaintiff's daily work activity.

ANSWER: This paragraph states a legal conclusion to which no response is required.

49. Defendant's conduct, as alleged herein, violated the ELCRA which makes it unlawful to retaliate against an employee who has engaged in protected activity.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

50. Plaintiff engaged in protected activity, as more fully laid out in the statement of facts, including, reporting to human resources the inappropriate harassing behavior by her co-workers.

ANSWER: This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, Dow denies the allegations in this paragraph because they are untrue.

51. Defendant, through its agents, had knowledge that Plaintiff engaged in protected behavior because she reported the issue directly to agents of Defendant.

ANSWER: This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, Dow denies the allegations in this paragraph because they are untrue.

52. After Plaintiff engaged in protected activity, Defendant's agents thereafter took adverse employment actions against Plaintiff, as alleged in the statement of facts.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

53. Defendant and its agents' unlawful actions were intentional, willful, malicious and/or done with reckless disregard of Plaintiff's rights.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

54. Plaintiff notified Defendant and its agents of the unwelcome conduct and communication; however, Defendant failed to remedy the same.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

55. As a proximate result of Defendant's discriminatory and retaliatory actions, Plaintiff has suffered losses in compensation, earning capacity, humiliation, mental anguish, and emotional distress.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

56. As a result of those actions and consequent harms, Plaintiff has suffered such damages in an amount to be proved at trial.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

57. Plaintiff requests relief as described in the Prayer for Relief below.

ANSWER: The allegations in this paragraph do not call for an answer. Nevertheless, Dow denies that Plaintiff is entitled to any such relief.

COUNT III
GENDER HARRASMENT/DISCRIMINATION IN VIOLATION OF THE
MICHIGAN ELLIOTT-LARSEN CIVIL RIGHTS ACT, MCL 37.2101 et
seq. (“ELCRA”)

58. Plaintiff incorporates by reference all allegations in the preceding paragraphs.

ANSWER: Dow incorporates by reference all preceding paragraphs.

59. At all material times, Defendant was an employer covered by, and within the meaning of the Elliott-Larsen Civil Rights Act (“ELCRA”), as amended.

ANSWER: This paragraph states a legal conclusion to which no response is required.

60. Defendant’s conduct, as alleged herein, violated ELCRA, which makes it unlawful to harass or discriminate against an employee on the basis of gender.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

61. A respondeat superior relationship existed because Plaintiff’s supervisors, had the ability to undertake or recommend tangible decisions affecting Plaintiff or the authority to direct Plaintiff’s daily work activity as alleged in the statement of facts.

ANSWER: This paragraph states a legal conclusion to which no response is required.

62. Plaintiff is a woman and a member of a protected class.

ANSWER: This paragraph states a legal conclusion to which no response is required. Answering further, Dow states, upon information and belief, that Plaintiff is a woman.

63. Plaintiff was subjected to communication or conduct on the basis of her gender, as indicated in the facts above.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

64. Male employees who worked for Defendant harassed Plaintiff, and did not treat other male employees in the same manner.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

65. The communication and conduct from the employees was unwelcomed.

ANSWER: Dow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and thus neither admits nor denies the allegations.

66. The unwelcomed conduct or communication was intended to or in fact did substantially interfere with the Plaintiff's employment or created an intimidating, hostile, or offensive work environment as alleged in the statement of facts.

ANSWER: This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, Dow denies the allegations in this paragraph because they are untrue.

67. Plaintiff notified Defendant and/or Defendant's agents of the unwelcomed conduct and communication and Defendant failed to remedy the unwelcomed conduct or communication.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

68. As a direct and proximate result of Defendant's and Defendant's agent's wrongful acts and omissions, Plaintiff has sustained loss of earnings, earning capacity, and fringe benefits and has suffered mental anguish, emotional distress, humiliation and embarrassment, loss of professional reputation, and was constructively terminated.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

COUNT IV
DISCRIMINATION ON THE BASIS OF RACE IN VIOLATION OF TITLE
VII OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. 2000e et seq.
("Title VII")

69. Plaintiff incorporates by reference all allegations in the preceding paragraphs.

ANSWER: Dow incorporates by reference all preceding paragraphs.

70. At all material times, Defendant was an employer and Plaintiff was an employee covered by, and within the meaning of, Title VII, as amended.

ANSWER: This paragraph states a legal conclusion to which no response is required.

71. Defendant's conduct, as alleged herein, violated Title VII of the Civil Rights Act of 1964, which makes it unlawful to harass or discriminate an employee on the basis of that employee's race.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

72. Plaintiff is a Black woman, and, as a result, is a member of a protected class pursuant to Title VII.

ANSWER: This paragraph states a legal conclusion to which no response is required. Answering further, Dow states, upon information and belief, that Plaintiff is a Black woman.

73. Plaintiff was subjected to offensive communication and/or conduct on the basis of her membership in this protected class.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

74. Defendant and its agents' unlawful actions were intentional, willful, malicious and/or done with reckless disregard for Plaintiff's rights.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

75. The unwelcomed conduct and communication was intended to and in fact did substantially interfere with Plaintiff's employment and created an intimidating, hostile, and/or offensive work environment as alleged in the statement of facts.

ANSWER: This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, Dow denies the allegations in this paragraph because they are untrue.

76. As a proximate result of the Defendant's discriminatory actions, Plaintiff has suffered losses in compensation, earning capacity, humiliation, mental anguish, and emotional distress.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

77. As a result of those actions and consequent harms, Plaintiff has suffered such damages in an amount to be proven at trial.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

78. Plaintiff requests relief as described in the Prayer for Relief below.

ANSWER: The allegations in this paragraph do not call for an answer. Nevertheless, Dow denies that Plaintiff is entitled to any such relief.

COUNT V
DISCRIMINATION ON THE BASIS OF RACE IN VIOLATION OF THE
MICHIGAN ELLIOTT-LARSEN CIVIL RIGHTS ACT, MCL 37.2101 et
seq. (“ELCRA”)

79. Plaintiff incorporates by reference all allegations in the preceding paragraphs.

ANSWER: Dow incorporates by reference all preceding paragraphs.

80. At all material times, Defendant was an employer and Plaintiff was an employee covered by, and within the meaning of, ELCRA.

ANSWER: This paragraph states a legal conclusion to which no response is required.

81. Defendant’s conduct, as alleged herein, violated the ELCRA, which makes it unlawful to harass or discriminate against an employee on the basis of that employee’s race or skin color.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

82. Plaintiff is a Black woman, and, as a result, is a member of a protected class pursuant to ELCRA.

ANSWER: This paragraph states a legal conclusion to which no response is required. Answering further, Dow states, upon information and belief, that Plaintiff is a Black woman.

83. Plaintiff was subjected to offensive communication and/or conduct on the basis of her membership in this protected class.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

84. Defendant and its agents' unlawful actions were intentional, willful, malicious and/or done with reckless disregard for Plaintiff's rights.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

85. The unwelcomed conduct and communication was intended to and in fact did substantially interfere with Plaintiff's employment and created an intimidating, hostile, and/or offensive work environment as alleged in the statement of facts.

ANSWER: This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, Dow denies the allegations in this paragraph because they are untrue.

86. As a direct and proximate result of the Defendant's wrongful acts and omissions, Plaintiffs have sustained loss of earnings, earning capacity, and fringe benefits and have suffered mental anguish, emotional distress, humiliation and embarrassment, and loss of professional reputation.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

87. Plaintiff requests relief as described in the Prayer for Relief below.

ANSWER: The allegations in this paragraph do not call for an answer. Nevertheless, Dow denies that Plaintiff is entitled to any such relief.

COUNT VI
HOSTILE WORKPLACE ENVIRONMENT IN VIOLATION
OF TITLE VII

88. Plaintiff incorporates by reference all allegations in the preceding paragraphs.

ANSWER: Dow incorporates by reference all preceding paragraphs.

89. At all material times, Defendant was an employer and Plaintiff was an employee covered by, and within the meaning of, Title VII, as amended.

ANSWER: This paragraph states a legal conclusion to which no response is required.

90. A respondeat superior relationship existed because agents of Defendant had the ability to undertake or recommend tangible decisions affecting Plaintiff and the authority to direct all of Plaintiff's daily work activity.

ANSWER: This paragraph states a legal conclusion to which no response is required.

91. Defendant's conduct, as alleged herein, violated Title VII which makes it unlawful to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

92. Plaintiff's work environment, as alleged in the statement of facts, made it so any individual who reported or spoke out against Defendant's discriminatory practices had an unworkable work environment.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

93. Moreover, Plaintiff's continual attempts to have the situation remedied, coupled with Defendant's ability to accuse Plaintiff of misbehaving made the situation untenable.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

94. The communication and conduct were unwelcomed.

ANSWER: Dow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and thus neither admits nor denies the allegations.

95. The unwelcomed conduct and communication were intended to, or in fact did, substantially interfere with Plaintiff's employment, and created an intimidating, hostile, and offensive work environment, as alleged in the statement of facts.

ANSWER: This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, Dow denies the allegations in this paragraph because they are untrue.

96. As a direct and proximate result of Defendant's discriminatory actions, Plaintiff has suffered losses in compensation, earning capacity, humiliation, mental anguish, and emotional distress.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

97. As a result of those actions and consequent harms, Plaintiff has suffered such damages in an amount to be proven at trial.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

98. Plaintiff requests relief as described in the Prayer for Relief below.

ANSWER: The allegations in this paragraph do not call for an answer. Nevertheless, Dow denies that Plaintiff is entitled to any such relief.

COUNT VII
HOSTILE WORKPLACE ENVIRONMENT IN VIOLATION OF THE
ELCRA

99. Plaintiff incorporates by reference all allegations in the preceding paragraphs.

ANSWER: Dow incorporates by reference all preceding paragraphs.

100. At all material times, Plaintiff was an employee, and Defendant was her employer covered by, and within the meaning of, the ELCRA.

ANSWER: This paragraph states a legal conclusion to which no response is required.

101. A respondeat superior relationship existed because agents of Defendant had the ability to undertake or recommend tangible decisions affecting Plaintiff and the authority to direct all of Plaintiff's daily work activity.

ANSWER: This paragraph states a legal conclusion to which no response is required.

102. Defendant's conduct, as alleged herein, violated the ELCRA which makes it unlawful to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

103. Plaintiff's work environment, as alleged in the statement of facts made it so any individual who reported or spoke out against Defendant's discriminatory practices had an unworkable work environment.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

104. Moreover, Plaintiff's continual attempts to have the situation remedied, coupled with Defendant's ability to ignore Plaintiff's complaints made the situation untenable.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

105. Additionally, Defendant's treated female employees, such as Plaintiff, in a hostile, intimidating, and offensive way.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

106. The unwelcomed conduct and communication was intended to, or in fact did, substantially interfere with Plaintiff's employment, and created an intimidating, hostile, or offensive work environment, as alleged in the statement of facts.

ANSWER: This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, Dow denies the allegations in this paragraph because they are untrue.

107. As a direct and proximate result of Defendant's discriminatory actions, Plaintiff has suffered losses in compensation, earning capacity, humiliation, mental anguish, and emotional distress.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

108. As a result of those actions and consequent harms, Plaintiff has suffered such damages in an amount to be proven at trial.

ANSWER: Dow denies the allegations in this paragraph because they are untrue.

109. Plaintiff requests relief as described in the Prayer for Relief below

ANSWER: The allegations in this paragraph do not call for an answer. Nevertheless, Dow denies that Plaintiff is entitled to any such relief.

WHEREFORE, Dow respectfully requests that Plaintiff's Complaint be dismissed with prejudice; that a judgment of no cause of action be entered in favor of Dow; that Dow recover its costs and attorneys' fees' and that this Court grant Dow any other relief that it deems just and equitably under the circumstances.

AFFIRMATIVE DEFENSES

The Dow Chemical Company states the following for its Affirmative Defenses:

1. Plaintiff's Complaint fails to state a claim upon which relief can be granted.
2. Plaintiff may have failed to mitigate her damages.
3. Plaintiff's claims may be barred by an applicable limitations period.
4. At no time did Dow discriminate against or retaliate against Plaintiff.
5. Dow's actions with respect to Plaintiff were for legitimate non-discriminatory and non-retaliatory reasons.
6. Plaintiff's claims are barred in whole or in part by the fact that Plaintiff was not subject to any adverse employment action.

7. Dow did not act intentionally, recklessly or maliciously toward Plaintiff. Dow's conduct toward Plaintiff was not extreme and outrageous. Dow's actions did not cause Plaintiff emotional distress. If Plaintiff suffered emotional distress, which is expressly denied, this emotional distress was not severe.

8. Plaintiff's claims and/or damages, if any, may be barred or limited because Dow adopted adequate policies prohibiting discrimination and retaliation and made good-faith efforts to comply with laws and regulations prohibiting discrimination and retaliation through following and enforcing such policies.

9. Plaintiff's damages, if any, may be limited by the after-acquired evidence doctrine.

Dow reserves the right to add additional defenses that become known through the course of further investigation as appropriate.

RELIANCE UPON JURY DEMAND

Dow relies on Plaintiff's jury demand.

Dated: October 6, 2023

/s/Edward J. Bardelli

Edward J. Bardelli (P53849)

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CERTIFICATE OF SERVICE

I hereby state that on October 6, 2023, the foregoing document was electronically with the Clerk of the Court using the ECF system. All parties and counsel of record will receive notice of this filing through the Court's electronic filing system and may access the filing through the Court's system.

/s/Edward J. Bardelli

Edward J. Bardelli