

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
HARRISONBURG DIVISION

MARK BELTON,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 5:13cv24
	)	
PAGE COUNTY, VIRGINIA,	)	
	)	
Defendant.	)	

**DEFENDANT’S ANSWER AND AFFIRMATIVE DEFENSES  
TO PLAINTIFF’S COMPLAINT**

The Defendant, Page County, Virginia (“County”), by counsel, and for its Answer and Affirmative Defenses to the Complaint filed against it by Plaintiff, Mark Belton (“Plaintiff”), states as follows:

**ANSWER**

1. Paragraph 1 of the Complaint is not a statement against the County that requires a response.
2. Paragraphs 2, 5, 6, and 7 are general allegations that pertain to jurisdiction and venue and the County does not object to the jurisdiction of the court or venue.
3. Paragraphs 3 and 4 are admitted.
4. County incorporates its responses to paragraphs 1 through 7 in response to paragraph 8.
5. County admits the allegations in paragraph 9 of the Complaint.
6. County is without sufficient knowledge to either admit or deny the allegations in paragraph 10.

7. County admits paragraph 11.

8. County admits paragraph 12 and more specifically, County admits that it supported Plaintiff's military service and provided him three (3) weeks of paid military service time per year.

9. County admits paragraphs 13, 14, 15, 16.

10. County denies paragraph 17 to the extent that it characterizes Supervisor, Robert Griffith's Facebook post as "displeasure with Mr. Belton's frequent absences due to military obligations." The County admits that Mr. Griffith was displeased with Mr. Belton's performance as County Administrator.

11. County denies paragraph 18 to the extent that it asserts that Supervisor, Darrel Short "was displeased with the projected absences caused by Mr. Belton's military obligations." County admits that the meeting referenced in paragraph 18 was to plan for continuity with regard to the management of the County during Mr. Belton's absences.

12. County admits paragraphs 19 and 20.

13. With regard to paragraph 21, County denies that "the Board informed Mr. Belton that Mr. Belton was doing a fine job;" the remaining allegations are admitted.

14. County admits paragraph 22.

15. County admits paragraph 23.

16. County denies paragraph 24 to the extent that it alleges that Board Chair, Mr. Woodward informed Mr. Belton that "the Board made its decision, in part, because of Mr. Belton's frequent absences due to military obligations;" the remaining allegations are admitted.

17. County admits paragraph 25 to the extent that the newspaper article referenced therein exists.

18. County admits paragraph 26.
19. County admits paragraph 27.
20. County admits paragraph 28, 29, 30, 31, 32, 33, and 34.
21. County incorporates its responses to paragraphs 1 through 34 in response to paragraph 35.
22. County denies the allegations in paragraphs 36, 37, 38, 39, and 40 of the Complaint.
23. County denies all allegations contained in the Complaint not expressly admitted herein.
24. County denies that it discriminated against Mark Belton at any time or in any manner because of his military status, obligations, or absences or for any other reason whatsoever.
25. The County denies that it is indebted or liable to Plaintiff for the damages or reasons set forth in the Complaint or any other amounts or reasons whatsoever.
26. County reserves the right to rely upon any legal and/or equitable defense that may be relevant herein to the extent that additional information is disclosed supporting such defenses. County reserves the right to amend its pleadings to include any and all such defenses.

### **FIRST AFFIRMATIVE DEFENSE**

County would have terminated Mr. Belton's contract in the absence of his military service, obligations, or absences. 38 U.S.C.A. § 4311(c)(1).

### **SECOND AFFIRMATIVE DEFENSE**

Plaintiff fails to state a claim against the County for damages and injunctive relief because he has suffered no damage, he requested to leave his position with the County early to start employment elsewhere, and he is not seeking to have his contract reinstated.

### **THIRD AFFIRMATIVE DEFENSE**

Plaintiff lacks standing to bring this claim against County because he has not suffered a “concrete and particularized injury” that can be redressed by this Court. Plaintiff has not suffered any lost wages or benefits, he left employment with the County to work elsewhere for considerably more money; and he is not seeking to have his contract with the County reinstated. Dees v. Hyundai Motor Mfg. Alabama, LLC, 368 Fed.Appx. 49 (11<sup>th</sup> Cir. 2010).

PAGE COUNTY, VIRGINIA

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**CERTIFICATE OF SERVICE**

I do hereby certify that on this 19th day of April, 2013, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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