

IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI

MISSOURI ALLIANCE FOR FREEDOM,	)	
INC.,	)	
	)	
Plaintiff,	)	
	)	Case No. 17AC-CC00365
v.	)	
	)	
STATE AUDITOR NICOLE GALLOWAY,	)	
	)	
Defendant.	)	

**ANSWER**

Defendant State Auditor files the following in answer to Plaintiff's Petition:

1. Deny.
2. Admit.
3. Deny.
4. Deny.
5. Paragraph 5 contains no facts to admit or deny and therefore denies the allegations. To the extent that the allegations may be construed to allege any fact, Defendant denies all such facts.
6. Defendant is without sufficient information to admit or deny the allegations in ¶16 and therefore denies same.
7. Admit.
8. Paragraph 8 makes legal assertions and contains no facts to admit or deny and therefore Defendant denies the allegations. To the extent that the allegations may be construed to allege any fact, Defendant denies all such facts.

9. Paragraph 9 makes legal assertions and contains no facts to admit or deny and therefore Defendant denies the allegations. To the extent that the allegations may be construed to allege any fact, Defendant denies all such facts.

10. Paragraph 10 makes legal assertions and contains no facts to admit or deny and therefore Defendant denies the allegations. To the extent that the allegations may be construed to allege any fact, Defendant denies all such facts.

11. Paragraph 11 makes legal assertions and contains no facts to admit or deny and therefore Defendant denies the allegations. To the extent that the allegations may be construed to allege any fact, Defendant denies all such facts.

12. Defendant admits that Plaintiff sent requests dated May 2, 8, and 26 requesting a multitude of documents. Defendant denies the remaining allegations in ¶12.

13. To the extent that Plaintiff is referring to the letters dated May 2, 8, and 26, Defendant admits that there is a sentence in each as alleged in ¶13.

14. To the extent that Plaintiff is referring to the letters dated May 2, 8, and 26, Defendant admits that there is a sentence in each as alleged in ¶14.

15. To the extent that Plaintiff is referring to the letters dated May 2, 8, and 26, Defendant admits that there is a sentence in each as alleged in ¶15.

16. Defendant admits that Plaintiff sent Galloway a letter dated May 2, 2017. Defendant admits that the letter requested Defendant to make available to Plaintiff a copy of a specified subpoena, and a multitude of unspecified documents. Plaintiff recites that there is an attachment to the Petition which is not a factual allegation. To the extent that there are any remaining factual allegations in ¶16, Defendant denies all such allegations.

17. Plaintiff attached to the Petition and incorporated by reference the letter alleged to have been sent to Defendant on May 2, 2017. As the language of the letter speaks for itself, Defendant denies Plaintiff's paraphrased summary to the extent that the language differs in any way from the attachment itself.

18. Plaintiff attached to the Petition and incorporated by reference the letter alleged to have been sent to Defendant on May 2, 2017. As the language of the letter speaks for itself, Defendant denies Plaintiff's paraphrased summary to the extent that the language differs in any way from the attachment itself.

19. Admit.

20. Admit.

21. Defendant admits that Defendant's May 5, 2017 letter to Plaintiff denied access to protected audit-related documents that are not open public records as provided in the sections cited in the May 5, 2017 letter. Defendant admits that Defendant did not assemble a log of documents not produced showing date and subject matter. Defendant denies the remaining allegations on ¶21.

22. Defendant denies that there are documents that would be responsive to Plaintiff's request because such records that were denied to Plaintiff were not open public records and are protected from disclosure by law. Further answering, Defendant states that Plaintiff has not identified any open public record to which Defendant was denied access, and in fact Defendant has continued to review and produce documents pursuant to Plaintiff's request. Defendant denies any remaining factual allegations in ¶22.

23. Defendant denies that any assertion of confidentiality was or is overbroad. The remainder of ¶23 appears to be a paraphrased description of the letter attached to Plaintiff's Petition. As the language of the letter speaks for itself, Defendant denies Plaintiff's paraphrased summary to the extent that the language differs in any way from the attachment itself. Further, ¶23 contains legal conclusions that can neither be admitted nor denied. Defendant admits that the portions of Defendant's correspondence to Plaintiff quoted in ¶23 are accurate.

24. Paragraph 24 appears to recite legal conclusions and requires no admission or denial. Defendant admits the accuracy of the quoted section from Defendant's May 5, 2017 letter to Plaintiff, but denies any other facts alleged in ¶24.

25. Defendant admits the accuracy of the quote from Defendant's May 5, 2017 letter to Plaintiff.

26. Defendant admits the accuracy of the quote from Defendant's June 2, 2017 letter to Plaintiff advising Plaintiff of the status and timetable for the processing of Plaintiff's request, and the accuracy of Plaintiff's May 2, 2017 letter to Defendant. To the extent any other facts are alleged in ¶26, Defendant denies all such facts.

27. Defendant admits that there was a June 30, 2017 letter from Defendant to Plaintiff advising Plaintiff of the status and timetable for the processing of Plaintiff's request, and Defendant admits to the accuracy of the quote from that letter.

28. Admit.

29. Deny. Defendant has produced thousands of pages of records in the more than 75 days that have passed as referred to in ¶28.

30. Defendant denies knowledge of what Plaintiff believes or on what basis.

Defendant admits that the Office of the State Auditor will have retained communications to or from its attorney, Paul Harper and its Senior Advisor and counsel, Douglas Nelson.

31. Deny.

32. Paragraph 32 appears to be a quote from §610.023 RSMo. To the extent any facts are alleged, Defendant denies all such facts.

33. Paragraph 33 appears to a quote from §610.023 RSMo. To the extent any facts are alleged, Defendant denies all such facts.

34. Deny.

35. Deny.

36. Deny.

37. Defendant admits that Plaintiff sent Galloway a letter dated May 8, 2017.

Defendant admits that the letter requested Defendant to make available a multitude of unspecified documents. Plaintiff recites that there is an attachment to the Petition which is not a factual allegation. To the extent that there are any remaining factual allegations in ¶37, Defendant denies all such allegations.

38. Plaintiff attached to the Petition and incorporated by reference the letter alleged to have been sent to Defendant on May 8, 2017. As the language of the letter speaks for itself, Defendant denies Plaintiff's paraphrased summary to the extent that the language differs in any way from the attachment itself.

39. Admit.

40. Defendant admits that Defendant produced a copy of the audit report and provided a link to an online copy of the same report. Defendant denies that there were any open public records responsive to Plaintiff's request for which Plaintiff was denied access. Defendant admits that it denied Plaintiff access to document protected from disclosure by law, citing the applicable sections of Missouri statutes. Defendant admits that Defendant did not assemble a log of documents not produced showing date and subject matter. Defendant denies the remaining allegations on ¶40.

41. Defendant denies that any assertion of confidentiality was or is overbroad. The remainder of ¶41 appears to be a paraphrased description of the letter attached to Plaintiff's Petition. As the language of the letter speaks for itself, Defendant denies Plaintiff's paraphrased summary to the extent that the language differs in any way from the attachment itself.

42. Defendant denies the existence of any open public records to which Plaintiff requested and was denied access. Further answering, Defendant admits that Defendant informed Plaintiff that certain confidential documents would not be produced, specifically, certain audit-related records. Defendant denies that Defendant failed to cite the appropriate sections of Missouri law. Paragraph 42 also contains legal assertions that do not require a response. To the extent further facts are alleged in ¶42, Defendant denies all such facts.

43. Defendant admits that Plaintiff sent Galloway a letter dated May 26, 2017. Defendant admits that the letter requested Defendant to make available to Plaintiff a multitude of unspecified documents. Plaintiff recites that there is an attachment to the Petition which is

not a factual allegation. To the extent that there are any remaining factual allegations in ¶43, Defendant denies all such allegations.

44. Plaintiff attached to the Petition and incorporated by reference the letter alleged to have been sent to Galloway on May 26, 2017. As the language of the letter speaks for itself, Defendant denies Plaintiff's paraphrased summary to the extent that the language differs in any way from the attachment itself.

45. Admit.

46. Defendant admits that on June 1, 2017, Defendant sent Plaintiff a reply to Plaintiff's May 26, 2017 letter and that the matter quoted in ¶46 from that letter is accurate.

47. Defendant admits that on June 1, 2017, Defendant sent Plaintiff a reply to Plaintiff's May 26, 2017 letter and that the matter quoted in ¶47 from that letter is accurate. Defendant admits that the June 1, 2017 letter did not state that all documents responsive to Plaintiff's request appeared at the hyperlink set forth in the letter.

48. Defendant admits that on June 30, 2017, Defendant sent Plaintiff the update letter promised in the June 1, 2017 letter quoted in ¶47 in reply to Plaintiff's May 26, 2017 letter, and that the portion of that June 30, 2017 letter quoted in ¶48 is accurate.

49. Admit that 51 days have passed at the time of the filing of this Petition.

50. Defendant admits that Defendant timely responded and provided to Plaintiff the only public record readily identifiable from Plaintiff's document request. Further answering, Defendant has continued to search and review documents.

51. Defendant denies knowledge of what Plaintiff believes or on what basis.

Further answering, the State Auditor's Office retains copies of communications that do not appear on its website.

52. Paragraph 52 contains legal assertions about statutory time limits which can be neither admitted nor denied. Defendant admits that on June 30, 2017, Defendant sent Plaintiff the update letter promised in the June 1, 2017 letter to Plaintiff, and that the portion of that letter quoted in ¶52 is accurate. To the extent additional facts are alleged in ¶52, all such facts are denied.

53. Deny.

54. Deny.

55. Deny.

56. Defendant incorporates Defendants responses to the preceding paragraphs as if fully set out herein.

57. Admit.

58. Admit.

59. Deny.

60. Defendant denies knowledge of what Plaintiff believes or on what basis.

Defendant admits that the Office of the State Auditor will have retained more than three communications to or from its attorney, Paul Harper and at least one record of communication to and from its Senior Advisor and counsel, Douglas Nelson.

61. Deny.

62. Deny.



63. Deny.

64. Defendant incorporates Defendants responses to the preceding paragraphs as if fully set out herein.

65. Defendant admits that on May 2, 2017, Plaintiff requested production of all records relating to an individual audit including communications. Defendant admits that Plaintiff requested communications between the Auditor's office and third parties.. Defendant denies the remaining allegations.

66. Deny.

67. Defendant denies knowledge of what Plaintiff believes or on what basis. Defendant denies that Plaintiff has been refused access to any open public record.

68. Deny.

69. Deny.

70. To the extent Plaintiff is referring to its May 2, 2017 request, Defendant admits that more than three days passed between that date and the filing of the Petition.

71. Defendant incorporates Defendants responses to the preceding paragraphs as if fully set out herein.

72. Admit.

73. As written, Defendant denies the allegations of paragraph 73 to the extent that it suggests that the request was for all communications when the request was for communications related to the audit as alleged in paragraph 72.

74. Admit.

75. Defendant admits that Defendant produced the report of the audit of the office of the Treasurer in response to Plaintiff's demand for audit-related documents. Defendant admits that the Plaintiff was denied other audit-related documents protected by Missouri law, with specific reference to the statutory sections.

76. Defendant denies knowledge of what Plaintiff believes or on what basis. Further answering, Defendant states that Defendant retains copies of everything produced to Plaintiff to date. Defendant denies any further allegations in paragraph ¶76.

77. Deny.

78. Deny.

79. To the extent Plaintiff is referring to its May 8, 2017 request, Defendant admits that more than three days passed between that date and the filing of the Petition.

80. Admit.

81. Admit.

82. Deny.

83. Deny.

84. Defendant is without sufficient information to respond to any allegation as to what Plaintiff believes or on what basis and accordingly denies same.

85. Deny.

86. To the extent Plaintiff is referring to its May 26, 2017 request, Defendant admits that more than three days passed between that date and the filing of the Petition.

## DEFENSES

1. The Petition fails to state a claim upon which relief can be granted.
2. Plaintiff's claim is premature and not ripe and therefore presents no justiciable controversy for court resolution.
3. Defendant Galloway reserves the right to assert further affirmative defenses as may be revealed as the litigation progresses.

Having fully answered and provided affirmative defenses to Plaintiff's Petition, Defendant Galloway respectfully requests this Court to dismiss the Petition with prejudice and enter any further relief this Court deems necessary.

Respectfully submitted,

/s/ Joel E. Anderson  
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