

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

ANTOINETTE GONZALES, CAROLL )  
AUSTIN, SARAH CLOVER, and ANNETTE )  
MORA, and A CLASS OF SIMILARLY )  
SITUATED CITY EMPLOYEES, )

Plaintiffs, )

vs. )

Case No. 1:09-cv-00520-JB-RLP

THE CITY OF ALBUQUERQUE, ED )  
ADAMS, Chief Administrative Officer, and )  
ESTHER TENENBAUM, Division Manager, in )  
their individual and official capacities, )

Defendants. )

**DEFENDANTS' SECOND SUPPLEMENTAL ANSWER TO  
PLAINTIFFS' CLASS ACTION INTERROGATORIES**

NOW COME The City of Albuquerque, Ed Adams, and Esther Tenenbaum (collectively "Defendants"), by and through their attorneys, Seyfarth Shaw LLP, and for their Second Supplemental Answer to Plaintiffs' Class Action Interrogatories, state as follows:

**INTERROGATORY NO. 1:**

Please identify each and every employee of the 311 Citizen Call [sic] Center (CCC) whose employment was terminated at any time during or since 2004 to the present; for each such employee please state the date of termination and give the reason for the termination.

**ORIGINAL ANSWER:**

Attached hereto is a list of employees involuntarily terminated from the 311 Citizen Contact Center<sup>1</sup> from its inception to the present with the name and address of the person, the date of termination and reason for termination.

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<sup>1</sup> Plaintiffs incorrectly refer to the 311 Citizen Contact Center as the "333 Citizen Call Center."

employees would be agency employees secured through a contract with the agency. The City's accounting records show that since the inception of the 311 CCC it has paid approximately \$116,155.22 to temporary agencies who have provided temporary staffing to the 311 CCC.

Since the inception of the 311 CCC no seasonal employees have been employed at the 311 CCC.

Since the inception of the 311 CCC, no individuals have worked on a part-time basis for less than 20 hours per week. Approximately three individuals have worked at the 311 CCC as part-time employees, working between 20 and 30 hours per week.

**INTERROGATORY NO. 7:**

Please describe any and all discussions or considerations concerning the "unclassified" status of 311 CCC employees both prior to and following establishment of the 311 CCC. Please include information about any advocacy *for* "classification" of 311 CCC operators and supervisors as well as any support for making or keeping them "unclassified." Please identify participants and dates of any such discussions and identify the forum or means of communication if applicable.

**ORIGINAL ANSWER:**

Defendants object to this interrogatory as vague, ambiguous, overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

**12/2/09 SUPPLEMENTAL ANSWER:**

The City is investigating the existence of written documents relative to the reasons for Center employees being unclassified and will supplement this answer, as appropriate, if responsive documents are found.

**2/5/10 SECOND SUPPLEMENTAL ANSWER:**

Defendants are unable to identify specific "discussions" concerning the unclassified status of 311 CCC employees. As for "considerations" concerning the unclassified status of 311 CCC employees, Defendants state as follows:

Employees in the 311 CCC are unclassified to allow the facility to be operated as closely as possible to a high-level private call center. Unclassified status allows the City flexibility in wages and benefits by enabling it to provide wages, benefits, and incentives beyond or different from those applicable to classified City employees. The City is able to tailor specific employee incentives such as spot bonuses, awards, and social events to reward performance on an immediate or very prompt basis to motivate employees. These incentives would not be possible under City rules and regulations applicable to classified employees. The City can also use streamlined hiring procedures as appropriate which permit the hiring of employees on an expedited basis. This flexibility is needed because of the unique aspects of the work performed at the 311 CCC. For example, 311 CCC employees must be familiar with all operations and services across City departments, whereas other City employees work, including those of other call center employees, does not require such a breadth of knowledge.

The 311 CCC, in this manner, has a greater ability to recruit and retain experienced, qualified call center employees. Discipline procedures can be maintained that allow for prompt correction of performance issues, and discipline up to and including termination where necessary, without the procedural requirements or delays applicable to classified employees.

All of these reasons permit the City to better serve its residents relative to non-emergency calls for assistance, information, or reporting matters requiring City services or attention. They also permit the City to more easily hire call center managers with private sector experience because of the similarity of procedures applicable to unclassified employees as were present in the private sector. Lastly, efficiency of the call center is promoted by the above flexibility possible through the unclassified status of 311 CCC employees.

**INTERROGATORY NO. 14:**

Please discuss and describe in as much detail as possible, City management reasons for making and keeping 311 CCC operators and supervisors unclassified and the benefits and costs of having those employees work in unclassified status.

**ORIGINAL ANSWER:**

Defendants object to this interrogatory on the grounds that it is overbroad, unduly burdensome, vague, and ambiguous. Subject to and without waiving these objections, Defendants state that unclassified status permits greater flexibility as to employees' terms and conditions of employment to better serve the citizens of Albuquerque.

**12/2/09 SUPPLEMENTAL ANSWER:**

Defendants will supplement their Answer after Plaintiffs serve a revised Interrogatory, as agreed by Counsel.

**2/5/10 SECOND SUPPLEMENTAL ANSWER:**

Defendants state as follows:

Employees in the 311 CCC are unclassified to allow the facility to be operated as closely as possible to a high-level private call center. Unclassified status allows the City flexibility in wages and benefits by enabling it to provide wages, benefits, and incentives beyond or different from those applicable to classified City employees. The City is able to tailor specific employee incentives such as spot bonuses, awards, and social events to reward performance on an immediate or very prompt basis to motivate employees. These incentives would not be possible under City rules and regulations applicable to classified employees. The City can also use streamlined hiring procedures as appropriate which permit the hiring of employees on an expedited basis. This flexibility is needed because of the unique aspects of the work performed at the 311 CCC. For example, 311 CCC employees must be familiar with all operations and

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All of these reasons permit the City to better serve its residents relative to non-emergency calls for assistance, information, or reporting matters requiring City services or attention. They also permit the City to more easily hire call center managers with private sector experience because of the similarity of procedures applicable to unclassified employees as were present in the private sector. Lastly, efficiency of the call center is promoted by the above flexibility possible through the unclassified status of 311 CCC employees.

**INTERROGATORY NO. 15:**

Please discuss and describe in as much detail as possible, City management's understanding of the costs and benefits of classifying 311 CCC operators and supervisors and employing them as classified employees.

**ORIGINAL ANSWER:**

Defendants object to this interrogatory on the grounds that it is overbroad, unduly burdensome, vague, and ambiguous. Subject to and without waiving these objections, *see* Answer to Interrogatory No. 14.

**12/2/09 SUPPLEMENTAL ANSWER:**

Defendants object to this interrogatory on the grounds that it is overbroad, unduly burdensome, vague, and ambiguous. Subject to and without waiving these objections, *see* Answer to Interrogatory No. 14.

**2/5/10 SECOND SUPPLEMENTAL ANSWER:**

Defendants state as follows:

Employees in the 311 CCC are unclassified to allow the facility to be operated as closely as possible to a high-level private call center. Unclassified status allows the City flexibility in wages and benefits by enabling it to provide wages, benefits, and incentives beyond or different from those applicable to classified City employees. The City is able to tailor specific employee incentives such as spot bonuses, awards, and social events to reward performance on an immediate or very prompt basis to motivate employees. These incentives would not be possible under City rules and regulations applicable to classified employees. The City can also use streamlined hiring procedures as appropriate which permit the hiring of employees on an expedited basis. This flexibility is needed because of the unique aspects of the work performed at the 311 CCC. For example, 311 CCC employees must be familiar with all operations and services across City departments, whereas other City employees work, including those of other call center employees, does not require such a breadth of knowledge.

The 311 CCC, in this manner, has a greater ability to recruit and retain experienced, qualified call center employees. Discipline procedures can be maintained that allow for prompt correction of performance issues, and discipline up to and including termination where necessary, without the procedural requirements or delays applicable to classified employees.

All of these reasons permit the City to better serve its residents relative to non-emergency calls for assistance, information, or reporting matters requiring City services or attention. They also permit the City to more easily hire call center managers with private sector experience because of the similarity of procedures applicable to unclassified employees as were present in the private sector. Lastly, efficiency of the call center is promoted by the above flexibility possible through the unclassified status of 311 CCC employees.

**INTERROGATORY NO. 16:**

Please state and describe in as much detail as possible any reasons, requirements, or justifications preventing or precluding consideration of 311 CCC employees as classified employees.

**ORIGINAL ANSWER:**

Defendants object to this interrogatory on the grounds that it is vague, ambiguous, indefinite, and argumentative. Subject to and without waiving these objections, *see* Answer to Interrogatory No. 14.

**2/5/10 SECOND SUPPLEMENTAL ANSWER:**

Defendants state as follows:

Employees in the 311 CCC are unclassified to allow the facility to be operated as closely as possible to a high-level private call center. Unclassified status allows the City flexibility in wages and benefits by enabling it to provide wages, benefits, and incentives beyond or different from those applicable to classified City employees. The City is able to tailor specific employee incentives such as spot bonuses, awards, and social events to reward performance on an immediate or very prompt basis to motivate employees. These incentives would not be possible under City rules and regulations applicable to classified employees. The City can also use streamlined hiring procedures as appropriate which permit the hiring of employees on an expedited basis. This flexibility is needed because of the unique aspects of the work performed at the 311 CCC. For example, 311 CCC employees must be familiar with all operations and services across City departments, whereas other City employees work, including those of other call center employees, does not require such a breadth of knowledge.

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Respectfully Submitted

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