

**CAUSE NO. 2018CI22164**

**KELLY GUERRERO**

**Plaintiff,**

**vs.**

**REALOGY OPERATIONS LLC D/B/A  
COLDWELL BANKER REAL ESTATE**

**Defendant.**

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**IN THE DISTRICT COURT**

**150TH JUDICIAL DISTRICT**

**BEXAR COUNTY, TEXAS**

**DEFENDANT’S ORIGINAL ANSWER TO PLAINTIFF’S ORIGINAL PETITION**

Defendant Realogy Operations LLC D/B/A Coldwell Banker Real Estate<sup>1</sup> (“Defendant”) files this Original Answer to Plaintiff’s Original Petition:

**I.  
GENERAL DENIAL**

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies each and every allegation contained in Plaintiff Kelly Guerrero’s (“Plaintiff”) Petition, and demands strict proof thereof by a preponderance of the credible evidence, as required by the Constitution and laws of the State of Texas.

**II.  
AFFIRMATIVE DEFENSES**

By way of further answer, and without limiting in any way its general denial or Plaintiff’s burden to show otherwise, Defendant pleads the following defenses if necessary. To the extent that any defense or legal theory may be interpreted as being inconsistent, such defenses or legal theories are hereby pled in the alternative:

1. Plaintiff’s claims, in whole or in part, are barred because Defendant’s statements made regarding Plaintiff, if any, were made in a good faith belief of their truth, based upon all

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<sup>1</sup> Plaintiff improperly named Realogy Operations LLC D/B/A Coldwell Banker Real Estate as Defendant in this matter. Coldwell Banker Real Estate LLC was Plaintiff’s employer and is the correct party to the Lawsuit.

relevant facts and circumstances known by Defendant at the time.

2. Plaintiff's claims, in whole or in part, are barred because any alleged defamatory statements were true or substantially true.
3. Plaintiff's claims, in whole or in part, are barred because any statements made by Defendant were not made with actual malice or reckless disregard for Plaintiff's rights.
4. Any actions taken concerning Plaintiff were done for legitimate, non-retaliatory, and non-discriminatory reasons.
5. Defendant is not liable for any alleged discrimination or retaliation because Defendant has measures in place to prevent and/or correct discrimination and retaliation, such measure which Plaintiff unreasonably failed to utilize.
6. Plaintiff's claims of discrimination and retaliation fail to the extent Defendant lacked knowledge of Plaintiff's alleged discrimination and retaliation.
7. For any damages for which Defendant is found liable, the existence of which damages and liability Defendant specifically denies, Defendant is entitled to a set-off or a credit for any amounts earned or received, or could have earned or received through reasonable efforts on each of his/her part.
8. Plaintiff's claims are barred to the extent Plaintiff failed, refused, and/or neglected to mitigate or avoid the damages complained of in Plaintiff's Petition, if any.
9. Plaintiff's claims are barred to the extent Plaintiff failed to satisfy all conditions precedent to the causes of action under Title VII and the Texas Labor Code, including exhausting all administrative remedies.
10. Plaintiff's recovery of damages, if any, should be reduced or eliminated due to the after-acquired evidence doctrine.

**III.**  
**PRAYER FOR RELIEF**

WHEREFORE, Defendant Realogy Operations LLC D/B/A Coldwell Banker Real Estate respectfully prays that Plaintiff's Original Petition be denied in full, and that Defendant may have such other and further relief, both at law and in equity, as to which they may be otherwise entitled.

Dated: December 21, 2018

Respectfully submitted,

/s/ Ryan E. Griffitts

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**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of December 2018, I electronically submitted the foregoing document with the clerk of Court using an efile.txcourts.gov System. Based on the records currently on file, the Clerk of the Court will transmit a Notice of Electronic Filing to the following counsel as authorized by Texas Rule of Civil Procedure 21a:

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*/s/ Ryan E. Griffiths*

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