

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

ASHLEY BROCK FARMER

PLAINTIFF

VS.

CAUSE NO. 4:22cv011-DMB-JMV

**CITY OF GREENWOOD, MISSISSIPPI, D/B/A
GREENWOOD CONVENTION AND VISITORS BUREAU**

DEFENDANT

**ANSWER AND AFFIRMATIVE DEFENSES OF
GREENWOOD TOURISM COMMISSION**

COMES NOW, Greenwood Tourism Commission publicly referred to and also known as the Greenwood Convention and Visitors Bureau (“CVB” or “Defendant”) by and through counsel, and answers the Complaint filed in the above referenced cause, as follows:

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted, and CVB should be dismissed.

SECOND DEFENSE

Plaintiff has incorrectly and erroneously styled the lawsuit and seems to allege claims against “City of Greenwood, Mississippi, d/b/a Greenwood Convention and Visitors Bureau” as the party defendant. CVB employs Plaintiff. Therefore, Plaintiff has failed to prosecute in the name of the real party in interest and the Complaint should be dismissed pursuant to Fed. R. Civ. P. 17(a)(3).

THIRD DEFENSE

Any claims asserted in the Complaint which were not the subject of a timely charge of discrimination with the Equal Employment Opportunity Commission or brought within the

applicable limitations period for suit are barred by the statutes of limitations and should be dismissed.

FOURTH DEFENSE

Plaintiff's claims based upon Title VII fail because CVB does not employ sufficient employees to satisfy the statutory minimum set forth in 42 U.S.C. § 2000e(b), and CVB should be dismissed.

FIFTH DEFENSE

There is no independent cause of action pursuant to 42 U.S.C. § 1981 against a public employer. In addition, there is no basis for any claim brought by Plaintiff under 42 U.S.C. § 1981 against Defendant.

SIXTH DEFENSE

Without waiving any defenses, Plaintiff has failed to plead and cannot show proof required for the causation element of her claim alleged under 42 U.S.C. § 1981.

SEVENTH DEFENSE

Some or all of Plaintiff's claims are barred by the applicable statute of limitations.

EIGHTH DEFENSE

This Court lacks subject matter jurisdiction over some or all of Plaintiff's claims.

NINTH DEFENSE

Plaintiff's claims are barred by the doctrine of sovereign immunity under state and federal law.

TENTH DEFENSE

Plaintiff failed to exhaust administrative remedies concerning all or some of her claims.

ELEVENTH DEFENSE

To the extent Plaintiff attempts to assert a claim under Title VII and to the extent such claim is based upon information not stated by Plaintiff in a timely charge of discrimination filed with the EEOC, Plaintiff's claims, or such claims not included in an EEOC charge, are barred.

TWELFTH DEFENSE

Plaintiff fails to make a *prima facie* case of discrimination. The decision by and votes of Defendant were nondiscriminatory and Plaintiff has no direct or circumstantial evidence to support her claims.

THIRTEENTH DEFENSE

At all times relevant to Plaintiff's lawsuit, Defendant acted in good faith with respect to its employment and compensation of Plaintiff, and the decisions with respect to Plaintiff were made without discriminatory intent or motivation.

FOURTEENTH DEFENSE

Defendant denies that it discriminated against Plaintiff during her employment for any reason and denies that Plaintiff was adversely affected during her employment any time for any discriminatory reason.

FIFTEENTH DEFENSE

Legitimate, non-discriminatory reasons support the Defendant's actions with regard to Plaintiff.

SIXTEENTH DEFENSE

The business judgment rule bars some or all of Plaintiff's claims. Defendant had legitimate, non-discriminatory business reasons with respect to all of its employment actions and decisions involving Plaintiff.

SEVENTEENTH DEFENSE

Without waiving the aforementioned defenses, Defendant, by and through counsel, responds paragraph by paragraph and answers the allegations of the Compliant, as follows:

1. Based upon information and belief, CVB admits the allegations contained in Paragraph 1.

2. It is admitted that Andrew McQueen is Chairman of the Commission and may be found for service of process at 200 MS Highway 7, Greenwood, Mississippi 38930. It is denied that the City of Greenwood, Mississippi performs, acts, or does business as the Greenwood Tourism Commission or as the Greenwood Convention and Visitors Bureau. It is specifically denied that the CVB and the City of Greenwood are one in the same for any purpose. It is specifically denied that service of process of CVB is proper upon the mayor of the City of Greenwood. All other allegations, or those inconsistent with or in addition to the foregoing statements, are denied, as stated.

3. Denied.

4. Based upon information and belief, it is admitted that Plaintiff has been employed by CVB since December 2017. It is admitted that the CVB is funded by a tax imposed by the City of Greenwood of and up to one percent (1%) of the gross proceeds from room rentals of hotels and motels in the City of Greenwood, excluding charges for telephone, laundry and similar service charges, and of and up to one percent (1%) of the gross receipts of restaurants and bars from retail sales of prepared food, beer and/or alcoholic beverages, all subject and pursuant to the provisions of the enabling legislation. It is admitted that the purpose of the CVB is to increase economic and quality of life opportunities or the people of Greenwood and Leflore County through promotional activities designed to attract and serve visitors (business travelers, vacationers, conventioners,

sports enthusiasts, etc.). The remaining allegations or those inconsistent with or in addition to the foregoing are denied.

5. Denied as stated. It is admitted only that Plaintiff performed additional duties following the departure of the previous executive director until a new executive director was hired.

6. Denied.

7. It is admitted there are African American members of the Commission. The remaining allegations of this paragraph are denied and Defendant demands strict proof thereof.

8. It is admitted that the candidate hired for the position of Executive Director is not a resident of the City of Greenwood, Mississippi. The remaining allegations of this paragraph are denied.

9. Denied.

10. Denied.

11. Denied, and Defendant demands strict proof thereof.

12. Denied.

11. (sic) Denied.

For the unnumbered paragraph entitled "REQUEST FOR RELIEF", other than admitting that Plaintiff has filed this action and seeks judgment of and from Defendant, all allegations in this paragraph are denied. It is specifically denied that Plaintiff is entitled to recover damages in any amount or to the relief requested in the Complaint.

EIGHTEENTH DEFENSE

Defendant specifically denies that it has willfully violated any law in any manner or respect whatsoever and denies that it is liable unto Plaintiff as alleged in the Complaint in any amount or sum or for any relief whatsoever.

NINETEENTH DEFENSE

To the extent Plaintiff alleges that she sustained damages as a result of the conduct of Defendant, which Defendant denies, Plaintiff failed to mitigate damages.

TWENTIETH DEFENSE

To the extent Plaintiff may seek punitive damages, those claims are barred or limited by state and federal law.

TWENTY-FIRST DEFENSE

Defendant affirmatively pleads all caps and limitations on liability and damages available to it under Title VII and any and all federal or state laws or statutes.

TWENTY-SECOND DEFENSE

The doctrines of waiver, accord and satisfaction, estoppel, and/or laches may bar some or all of Plaintiff's claims.

TWENTY-THIRD DEFENSE

Defendant acted reasonably at all times with respect to Plaintiff based upon information available to it.

TWENTY-FOURTH DEFENSE

Defendant denies each and every allegation or averment of Plaintiff's Complaint not specifically admitted herein and above.

TWENTY-FIFTH DEFENSE

Defendant reserves the right to rely upon such other defenses as may become available or apparent during the course of discovery and this lawsuit.

WHEREFORE, PREMISES CONSIDERED, Defendant Greenwood Tourism Commission also known as the Greenwood Convention and Visitors Bureau denies that Plaintiff

is entitled to a judgment against it in any amount whatsoever or for the relief requested, and respectfully requests and moves that this case be dismissed with prejudice with all costs assessed to the Plaintiff.

RESPECTFULLY SUBMITTED, this the 17th day of February, 2022.

GREENWOOD TOURISM COMMISSION

BY: Kacey Guy Bailey
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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have this day electronically filed the foregoing document using the ECF system which sent notification to:

Jim Waide, Esq.
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This the 17th day of February, 2022.

/s/Kacey Guy Bailey
KACEY GUY BAILEY