

**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

**GREENWOOD TOURISM COMMISSION, d/b/a
GREENWOOD CONVENTION AND VISITORS BUREAU
And CITY OF GREENWOOD, MISSISSIPPI**

DEFENDANTS

**ANSWER AND AFFIRMATIVE DEFENSES OF
GREENWOOD TOURISM COMMISSION
TO FIRST AMENDED COMPLAINT**

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 First Amended Complaint filed in the above referenced cause, as follows:

FIRST DEFENSE

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

SECOND DEFENSE

Plaintiff has incorrectly and erroneously alleged claims against the City of Greenwood, Mississippi as a party defendant, in addition to the CVB. The CVB employs Plaintiff; and, to the extent Plaintiff has failed or fails to prosecute in the name of the real party in interest or has mis-joined parties, and the First Amended Complaint should be dismissed.

THIRD DEFENSE

Any claims asserted in the First Amended 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 the CVB.

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 or 1983.

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 the CVB were nondiscriminatory and Plaintiff has no direct or circumstantial evidence to support her claims.

THIRTEENTH DEFENSE

At all times relevant to Plaintiff's lawsuit, the CVB 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

The CVB 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 actions of the CVB with regard to Plaintiff.

SIXTEENTH DEFENSE

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

SEVENTEENTH DEFENSE

The CVB denies that Plaintiff has any basis or facts to support any claim that the CVB intended to discriminate against her on the basis of race. It is denied that the CVB deprived Plaintiff of any constitutionally protected property right or interest without due process of law or in violation of her equal protection. Plaintiff has not and cannot show that she was deprived of any right secured by the Constitution or laws of the United States or state law, committed by a person acting under color of state law. Moreover, Plaintiff has failed to assert claims of specific conduct and actions giving rise to the alleged violations and/or has failed to allege specific facts supporting her claim.

EIGHTEENTH DEFENSE

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

For the unnumbered preliminary statement beginning, "This is an action...", other than to admit that Plaintiff has filed a lawsuit, the CVB denies there is any basis to support Plaintiff's claims against the CVB or that the CVB is liable to Plaintiff for any damages or recovery whatsoever, including injunctive relief.

1. Based upon information and belief, CVB admits the allegations contained in Paragraph 1.
2. It is admitted that the CVB is a separate legal entity from the City of Greenwood, Mississippi. 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 “divisions” of one another. The allegations in this paragraph that are directed to the City of Greenwood do not require a response from this defendant; however, to the extent the allegations could or may be held against this defendant or adversely affect it, they are denied. All other allegations, or those inconsistent with or in addition to the foregoing statements, are denied, as stated.

3. Denied.

4. The allegations in this paragraph are directed to the City of Greenwood and require no response from this defendant. To the extent the allegations could or may be held against this defendant or adversely affect it, denied.

5. Based upon information and belief, it is admitted that Plaintiff has been employed by CVB since December 2017. It is admitted that during her employment with the CVB, Plaintiff was involved in promoting the City of Greenwood, Mississippi, including its restaurants and hotels. Otherwise, denied as stated. The remaining allegations or those inconsistent with or in addition to the foregoing are denied.

6. 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.

7. Denied.

8. 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.

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

10. Denied.
11. Denied.
12. Denied, and Defendant demands strict proof thereof.
13. Denied, including subparts (a) and (b).
14. Denied.
15. Denied.

For the unnumbered paragraph entitled “REQUEST FOR RELIEF”, other than admitting that Plaintiff has filed this action and seeks judgment of and from the CVB, 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 First Amended Complaint.

NINETEENTH DEFENSE

The CVB 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 First Amended Complaint in any amount or sum or for any relief whatsoever.

TWENTIETH DEFENSE

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

TWENTY-FIRST DEFENSE

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

TWENTY-SECOND DEFENSE

The CVB 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-THIRD DEFENSE

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

TWENTY-FOURTH DEFENSE

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

TWENTY-FIFTH DEFENSE

The CVB denies each and every allegation or averment of Plaintiff's First Amended Complaint not specifically admitted herein and above.

TWENTY-SIXTH DEFENSE

The CVB 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 28th day of March, 2022.

GREENWOOD TOURISM COMMISSION

BY: Kacey Guy Bailey
KACEY GUY BAILEY, *Its Attorney*

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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.
Ron Woodruff, Esq.
Rachel Waide, Esq.
WAIDE & ASSOCIATES, P.A.
Post Office Box 1357
Tupelo, MS 38802-1357

This the 28th day of March, 2022.

/s/Kacey Guy Bailey
KACEY GUY BAILEY