

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

HARRIET THOMPKINS,

Plaintiff,

vs.

Case No. 8:10-CV-1518-T23-TBM

GULF BEACHES PUBLIC LIBRARY, INC.,
a Florida Non-Profit Corporation,

Defendant.

**ANSWER AND AFFIRMATIVE DEFENSES TO COMPLAINT
AND DEMAND FOR JURY TRIAL**

COMES NOW, Defendant, GULF BEACHES PUBLIC LIBRARY, INC., a Florida non-profit corporation, by and through its undersigned counsel, and file this Answer to Complaint and Affirmative Defenses, as follows:

INTRODUCTION

1. Admitted that this is an action brought under Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981. Otherwise, denied.

JURISDICTION AND VENUE

Defendant, GULF BEACHES PUBLIC LIBRARY, INC. realleges and reincorporates its responses previously made to Paragraph 1.

2. Without knowledge, therefore denied.
3. Denied.

4. Admitted that this Court has jurisdiction pursuant to 28 U.S.C. § 1331. Otherwise, denied.

PARTIES

Defendant, GULF BEACHES PUBLIC LIBRARY, INC. realleges and reincorporates its responses previously made to paragraphs 1-4.

5. Admitted.
6. Denied.

FACTUAL BACKGROUND

Defendant, GULF BEACHES PUBLIC LIBRARY, INC. realleges and reincorporates its responses previously made to paragraphs 1-6.

7. Without knowledge, therefore denied.
8. Admitted.
9. Denied.
10. Denied.
11. Admitted that Stan Silverstein is a white male who does not possess a Masters in Library Science. Otherwise, denied.
12. Denied.
13. Denied.

COUNT I - RACE DISCRIMINATION

14. Defendant, GULF BEACHES PUBLIC LIBRARY, INC. realleges and reincorporates its responses previously made to paragraphs 1-13.
15. Denied.

16. Denied.

17. Denied.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiff's Complaint fails to state a cause of action upon which relief may be granted.

Second Affirmative Defense

Plaintiff is unable to establish a prima facie case for discrimination based on race under Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981.

Third Affirmative Defense

Defendant acted reasonably and in good faith towards to Plaintiff.

Fourth Affirmative Defense

There is no causal relation between the Defendant's employment decision to termination Plaintiff, and her race.

Fifth Affirmative Defense

Defendant made all employment and termination decisions concerning Plaintiff based on legitimate, non-discriminatory factors, other than Plaintiff's race.

Sixth Affirmative Defense

Plaintiff cannot prove that Defendant's reasons for termination was a pretext for discrimination.

Seventh Affirmative Defense

Defendant did not act with malice and/or reckless disregard for Plaintiff's rights protected under Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981.

Eight Affirmative Defense

Plaintiff has failed to make every reasonable effort to minimize or reduce her damages for loss of compensation by seeing employment.

Ninth Affirmative Defense

Plaintiff's Complaint includes claims that were not made by Plaintiff in her Charge of Discrimination, submitted to the Equal Employment Opportunity Commission (the "EEOC") and the Pinellas County Office of Human Relations on or about January 20, 2009. Plaintiff is barred from making such claims and is limited to the charges previously filed with the EEOC and Pinellas County Office of Human Relations.

Tenth Affirmative Defense

Defendant is entitled to and claims a set-off for any and all collateral sources, including, but not limited to, any compensation earned by the Plaintiff.

Eleventh Affirmative Defense

Defendant would have terminated the Plaintiff in the absence of any alleged discrimination.

Twelfth Affirmative Defense

Defendant's decision to terminate Plaintiff as an employee was a legitimate, non-discriminatory reason, as Defendant chose to eliminate the position and generate a reduction in work force necessary to achieve financial stability. Verna v. Public Health Trust of Miami-Dade County, 539 F. Supp. 2d 1340 (S.D. Fla. 2008).

DEMAND FOR JURY TRIAL

Defendant, GULF BEACHES PUBLIC LIBRARY, INC., a Florida non-profit corporation, demands a trial by jury on all issues so triable.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 5th, 2010, I electronically filed the foregoing Answer and Affirmative Defenses to Complaint And Demand for Jury Trial with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to the following: Craig L. Berman, Esquire (cberman@tampabay.rr.com), Plaza Tower, 111 Second Avenue NE, Suite 706, St. Petersburg, Florida 33701.

/s/ Andrew J. Salzman

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