

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

BRENDA BALLENGER

PLAINTIFF

vs.

Civil Action No. 3:07-cv-253-HTW-LRA

FLYING J, INC.

DEFENDANT

ORDER

Before this court is defendant Flying J, Inc.'s ("Flying J") motion for partial summary judgment submitted pursuant to Fed. R. Civ. P. 56(b)¹ and (c).² [Docket No. 31] Flying J asserts plaintiff Brenda Ballenger ("Ballenger") has failed to prove sufficiently her Title 42 U.S.C. § 2000e-3³ retaliation claim. On September 17, 2008, the court called these matters forward for hearing. Having considered the motions, responses, replies, as well as the relevant law and the case file as a whole, the court is persuaded that the plaintiff has sufficiently urged her claim of retaliation. Thus, the defendant's motion for partial summary judgment is denied.

¹ Fed. R. Civ. P. 56(b) provides that "a party against whom relief is sought may move at any time, with or without supporting affidavits, for summary judgment on all or part of the claim."

² Fed. R. Civ. P. 56(c) states, in pertinent part, that summary judgment "should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law."

³ Under Title 42 U.S.C. § 2000e-3, an employer may not discriminate against an employee because the employee has "opposed any practice made an unlawful employment practice [...] or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding or hearing" under Title VII.

SO ORDERED, this the 18th day of September, 2008.

s/ HENRY T. WINGATE

**_____
CHIEF UNITED STATES DISTRICT JUDGE**

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