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II. Jurisdiction & Venue

4. This Court has jurisdiction of this action as this case arises under Chapter 21 of the Texas Labor Code. The amount in controversy is within the jurisdictional limits of this Honorable Court as Plaintiff seeks monetary relief of over \$1,000,000.00.

5. Venue is proper in Galveston County, Texas, in that all or substantial part of the events or omissions giving rise to the claim occurred in Galveston County, Texas. Thus, venue is proper. *See* TEX. CIV. PRAC. & REM. CODE § 15.002.

III. Exhaustion of Administrative Procedures

6. All conditions precedents to jurisdiction have occurred with a dual filing of a complaint with Texas Workforce Commission – Civil Rights & Discrimination Department and Plaintiff’s receipt of Texas Workforce Commission – Civil Rights & Discrimination Department’s issuance of a right to sue letter. See Exhibit A, which contains copies of Plaintiff’s Charge and Right to Sue Letter.

IV. Facts and General Allegations

7. Plaintiff is a 62-year-old, African American female. She was hired by Defendant in 1980 as a teller and worked her way up over the years to Senior Vice President. Defendant as a bank holds itself out as being part of a customer’s family, part of a customer’s “home” that provides more to its customers than offered by any other bank. It claims it is the “Bank You’ll Call Home.”

8. Based on this belief, during Plaintiff’s 41 years employment with Defendant, she was trained to go beyond general customer care and service. She was trained to take it to the next level and hold the customer’s hands regarding their banking needs. She was trained to promote the “hometown” feeling in customer service.

9. In September 2021, Plaintiff was confronted by an upper management employee, Gayle Cullings, Caucasian, about a computer. Plaintiff felt this confrontation from Ms. Cullings was workplace harassment. Plaintiff complained about this conduct to the Executive Vice President, Kyle McFatridge, and he took no action to investigate Plaintiff's side of events but did take time to allow Ms. Cullings to provide a written statement. Plaintiff was ignored.

10. After complaining, and in October 2021, Plaintiff was put on leave until the outcome of an investigation alleging that she violated the Defendant's Code of Ethics Policy ("Policy"). The investigation was performed in a manner that Plaintiff was asked questions, but not given the context of the questions. This format did not allow Plaintiff to provide an informed response. It was a pretext investigation.

11. On November 16, 2021, Plaintiff was terminated, allegedly for violating the Policy. Defendant alleged the Policy was violated due to Plaintiff's activities with certain accounts and customers. However, if Defendant's allegations are accepted as true (for which Plaintiff vehemently denies) than other employees should have been terminated for violating the Policy. The Policy specifically states that it applies to all "officers, directors, attorneys, and agents of this bank." However, the Policy is not enforced against non-African American employees. When Defendant performed its investigation against Plaintiff, other non-African American employees were identified as violating the Policy, but no adverse employment action was taken against them.

12. Defendant has implemented checks and balances to ensure Policy violations, like those allegedly committed by Plaintiff, do not occur. Other employees make up those checks and balances. The only way Plaintiff could have violated the Policy with the checks

and balances in place is if those other employees, who were in place to protect the Policy, violated it also. Defendant's investigation states these other employees, "looked the other way." If true, that is a Policy violation in and of itself. However, those employees are not African American and therefore, they were not investigated and terminated. Plaintiff is similarly situated with these non-African American employees, since the Policy specifically states that it applies to all "officers, directors, attorneys, and agents of this bank." But it is only being enforced against Plaintiff, an African- American.

13. During the investigation, Plaintiff informed the investigator she felt that she was "being treated differently." But because it was only a pretext investigation, that complaint was not investigated and developed to ascertain its validity. Instead, Plaintiff's complaint was ignored during the investigation. Defendant's investigation states that the Defendant just "assumed" Plaintiff was talking about another employee being a will beneficiary.

14. The Defendant had duty to investigate Plaintiff's complaint of differential treatment and not make assumptions. This was just a pretext investigation.

15. If Plaintiff's conduct did violate the Policy (for which Plaintiff denies), then over the course of her 41 years employment, Plaintiff came to know other employees whose conduct would be a Policy violation. Defendant was aware of these other employees' conduct. These employees were not investigation and terminated. These employees were non-African American employees. Again, Plaintiff is similarly situated with these non-African American employees. Especially since the Policy states that it applies to all "officers, directors, attorneys, and agents of this bank." But it is only being enforced against Plaintiff, an African- American.

16. Additionally, during Plaintiff's employment with Defendant, she held the position of Senior Vice President. Though she was one of the longest tenured senior vice presidents with the Defendant, she was paid less than the other non-African American senior vice presidents.

17. After Plaintiff's termination, her position was filled by two employees who are younger than Plaintiff.

V. Race Discrimination in Violation of Chapter 21 of the Texas Labor Code

18. Plaintiff incorporates paragraphs 1 – 17.

19. Plaintiff claims that as a result of her being African American she was subjected to a pretext investigation and treated different to other similarly situated employees.

20. This includes being treated differently than other employees that Plaintiff is similarly situated with regard to Defendant's Policy that was implemented to govern all "officers, directors, attorneys, and agents of this bank."

21. Though other employees violated the Policy, only Plaintiff was subjected to a pretext investigation and adverse employment action. Plaintiff, an African American, was treated differently than the other employees, non-African Americans, who violated the Policy.

22. Defendant discriminated against Plaintiff in connection with the terms and conditions of employment and/or classified Plaintiff in a manner that would deprive her of a continued employment opportunity because of Plaintiff's race in violation of Chapter 21.

23. Defendant treated Plaintiff in a manner that deprived her of an equal employment opportunity that was provided to other non-African American employees similarly situated in violation of Chapter 21.

24. Plaintiff alleges that Defendant discriminated against her on the basis of race with malice or with reckless indifference to the Texas-protected rights of Plaintiff.

VI. Retaliation in Violation of Chapter 21 of the Texas Labor Code

25. Plaintiff incorporates paragraphs 1 – 24.

26. Because Plaintiff engaged in a protected activity, making a complaint, Defendant has retaliated against Plaintiff in violation of Chapter 21 of the Texas Labor Code, by taking an adverse employment action, termination, against her. Plaintiff complained that a Caucasian employee harassed her. Though the Caucasian employee was given an opportunity to state her side of events, Plaintiff was ignored and retaliated against.

27. Plaintiff was again ignored during the Policy violation investigation when she stated she was “being treated differently.” Defendant had a duty to investigate but chose to ignore and retaliate against Plaintiff. Plaintiff was ultimately terminated for participating in a protected activity in violation of Chapter 21 of the Texas Labor Code.

VII. Age Discrimination in Violation of Chapter 21 of the Texas Labor Code

28. Plaintiff incorporates paragraphs 1 – 27.

29. Plaintiff was 61 years old at the time of her termination. The age of 61 is in a protected class. She was qualified as Defendant’s senior vice president, as she held that position for 10 years. When she was wrongly terminated and retaliated against, she was replaced by individuals younger than her. Defendant participated in age discrimination against Plaintiff in violation of the Texas Labor Code.

VIII. Damages

30. Plaintiff incorporates paragraphs 1 – 29.

31. As a direct and proximate result of Defendant’s violations of law, Plaintiff

suffered and continues to suffer a loss of earnings and other employment benefits and job opportunities. This includes suffering the loss of participating in the Defendant's deferred compensation plan(s), retirement packages, and/or 401K contribution benefits (and other economic plans/packages/benefits offered to employees).

32. As a direct and proximate result of Defendant's violations of law, Plaintiff suffered and continues to suffer emotional/mental anguish.

33. As a direct result of Defendant's violation of law, Plaintiff has experienced damage to her reputation as she is now categorized as a "fired" or "terminated" employee. Anytime she discloses why she is no longer employed with Defendant, she will have to disclose that she was "terminated" for alleged misconduct. Plaintiff is being stigmatized due to the frivolous termination and Defendant's statute violations. Plaintiff requests damages for the stigmatization and damage to reputation.

34. As a further direct and proximate result of Defendant's violations of law, Plaintiff has been compelled to retain the services of counsel in an effort to protect her rights, and has incurred, and will continue to incur, legal fees, and cost, the full nature and extent of which are presently unknown to Plaintiff. Plaintiff requests that attorney's fees, cost, and expenses (including but not limited to expert witness' fees) be awarded pursuant to all applicable laws.

IX. Punitive/Exemplary Damages

35. Defendant engaged in a discriminatory practice with malice or with reckless indifference to the state-protected rights of Plaintiff. Therefore, Defendant is liable for punitive damages pursuant to § 21.2585 of the Texas Labor Code.

X. No Federal Question

36. Plaintiff brings no federal claims or federal questions. All of Plaintiff's claims are state claims under the Texas Labor Code and other applicable state statutes.

XI. Jury Demand

37. Plaintiff hereby request a trial by jury.

XII. Prayer

38. Wherefore, Plaintiff prays that Defendant be cited to appear and answer and that upon trial of this matter, Plaintiff be awarded the following:

- a. Compensatory damages;
- b. Past and future mental anguish;
- c. Past and future actual damages;
- d. Damages to reputation;
- e. Past and future economic damages;
- f. Back pay;
- g. Reinstatement and/or front pay (as reinstatement is not feasible);
- h. Exemplary damages;
- i. Attorney's fees;
- j. Expert's fees;
- k. Court costs;
- l. Pre-judgment interest at the highest rate allowed by law;
- m. Post-judgment interest at the highest rate allowed by law; and
- n. All other relief to which Plaintiff is entitled.

Respectfully submitted,

Thomson Dunkel Law, PLLC

By: /s/ Charles P. Dunkel, Jr.

Charles P. Dunkel, Jr.

State Bar No. 24034427

Ashley N. Thomson

State Bar No. 24097908

2600 South Shore Blvd, STE 300

League City, TX 77573

Telephone: 281.738.3448

Email: cdunkel@tdunklaw.com

Email: athomson@tdunklaw.com

ATTORNEYS FOR PLAINTIFF

Exhibit A

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA

460-2022-01395

☒ EEOC

Texas Workforce Commission - Civil Rights and Discrimination Department

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Angela F. Brooks

Home Phone (incl. Area Code)

(409) 739-5104

Date of Birth

06/04/60

Street Address

City, State and ZIP Code

P.O. Box 1285, La Marque, TX 77568

Named Is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two are named, list under PARTICULARS below.)

Name

Hometown Bank

No. Employees, Members

20 or more

Phone No. (incl. Area Code)

(409) 763-1271

Street Address

City, State and ZIP Code

4424 Seawall Blvd, Galveston, TX 77551

Name

No. Employees, Members

Phone No. (incl. Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE☒ COLOR☐ SEX☐ RELIGION☐ NATIONAL ORIGIN☒ RETALIATION☒ AGE☐ DISABILITY☐ GENETIC INFORMATION☐ OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

2010

Latest

11/16/2021

☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

I worked for my employer, HomeTown Bank, ("Bank") for 41 years. During that time period I was trained by the Bank to go beyond general customer care and service. The Bank trained me to take it to the next level and hold our customers' hands regarding all of their financial needs. I complied with this training. On November 16, 2021, I was terminated, allegedly for violating the Bank's Code of Ethics Policy. The policy specifically states that it applies to all "officers, directors, attorneys, and agents of this bank." However, the policy is not being enforced against non-African American employees. After the Bank performed a pretext investigation of the alleged violation, other non-African American employees' names were identified as policy violators but no adverse employment action was taken against them. Of interest is the fact that a Caucasian upper management employee, Gayle Cullings, confronted me about a computer. I complained about her conduct to the Executive Vice President, and he took no action to investigate my side of events. Shortly after complaining, the investigation of my alleged policy violation ensued and I was terminated.

Additionally, my position with the Bank was Senior Vice President. Though I was employed for 41 years, I believe I was paid less than my counterparts who are not African American.

I believe I have been discriminated based on my race, African American, and color; and I was retaliated against for reporting a Caucasian upper management employee for inappropriately confronting me. Additionally, after my termination, I was replaced by two younger employees and therefore I believe I have been discriminated based on my age. I have been discriminated against in violation of the protections of Title VII, the ADEA, and all applicable anti-discriminatory protective statutes, both state and federal.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State or Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

4-12-2022



Courtney Culbertson
Notary Public
STATE OF TEXAS
Notary ID# 13277944-8
My Comm. Exp. October 30, 2024

Date

Charging Party Signature

Texas Workforce Commission

A Member of Texas Workforce Solutions

Bryan Daniel, Chairman
Commissioner Representing
the Public

Julian Alvarez
Commissioner Representing
Labor

Aaron Demerson
Commissioner Representing
Employers

Edward Serna
Executive Director

June 3, 2022

NOTICE OF COMPLAINANT'S RIGHT TO FILE CIVIL ACTION

Angela F. Brooks
c/o Charles P. Dunkel, Jr.
Thomas Dunkel Law PLLC
2600 South Shore Blvd., Suite 300
League City, TX 77573

Re: **Angela F. Brooks v. HomeTown Bank**
EEOC Complaint # 460-2022-01395

Dear Angela F. Brooks:

The Texas Workforce Commission Civil Rights Division (TWCCRD) has received and carefully reviewed your recent request to issue the Notice of Right to File a Civil Action (NRTFCA) on the above referenced charge. According to the documentation provided, 180 days has not passed since the filing of this charge.

As stated in Texas Labor Code Chapter 21 Sec. 21.253, our agency may issue a notice to file civil action in the event that the executive director certifies that administrative processing of the complaint cannot be completed before the 181st day after the date the complaint was filed.

This is to certify that our office will be unable to complete an investigation before the 181st day and thus may issue a Notice of Right to File Civil Action.

The above-referenced case was processed by the United States Equal Employment Opportunity Commission or a local agency. Pursuant to Sections 21.252 and 21.254 of the Texas Labor Code, this notice is to advise you of your right to bring a private civil action in state court in the above-referenced case. **YOU HAVE SIXTY (60) DAYS FROM THE RECEIPT OF THIS NOTICE TO FILE THIS CIVIL ACTION.**

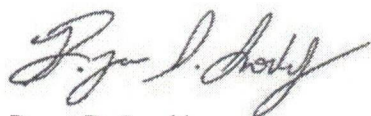
If your case has been successfully resolved by the U. S. Equal Employment Opportunity Commission or another agency through a voluntary settlement or conciliation agreement, you may be prohibited by the terms of such an agreement from filing a private civil action in state court pursuant to Chapter 21 of the Texas Labor Code.

The United States Supreme Court has held in *Kremer v. Chemical Construction Corporation*, 456 U.S. 461 (1982), that a federal district court must generally dismiss a Title VII action involving the same parties and raising the same issues as those raised in a prior state court action under Chapter 21 of the Texas Labor Code. Therefore, filing a lawsuit in state court based on the issuance of this notice of right to file a civil action may prevent you from filing a lawsuit in federal court based on Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e - et seq.

Angela F. Brooks
June 3, 2022
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If you have any questions, please contact our office at (512) 463-2642 or (888) 452-4778.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryan D. Snoddy". The signature is fluid and cursive, with the first name "Bryan" being more prominent than the last name "Snoddy".

Bryan D. Snoddy
Director, Civil Rights Division

RETAIN ENVELOPE TO VERIFY DATE RECEIVED

Copy to:
HomeTown Bank
c/o: Kyle McFatridge
Branch Manager
4424 Seawall Blvd.
Galveston, TX 77551

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Ashley Thomson on behalf of Ashley Thomson

Bar No. 24097908

athomson@tdunklaw.com

Envelope ID: 66542054

Status as of 7/21/2022 1:14 PM CST

Associated Case Party: AngelaF.Brooks

Name	BarNumber	Email	TimestampSubmitted	Status
Charles PDunkel		cdunkel@tdunklaw.com	7/21/2022 12:33:22 PM	SENT
Raven Keeler		rkeeler@tdunklaw.com	7/21/2022 12:33:22 PM	SENT
Ashley Thomson		athomson@tdunklaw.com	7/21/2022 12:33:22 PM	SENT