

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CASE NO. 6:17-cv-00664-RBD-GJK

RUFUS LOVELL BROOKS

Plaintiff,

vs.

MOBILITIE MANAGEMENT, LLC,

Defendant.

_____ /

DEFENDANT’S ANSWER AND AFFIRMATIVE DEFENSES
TO PLAINTIFF’S FIRST AMENDED COMPLAINT

Defendant, MOBILITIE MANAGEMENT, LLC (“Mobilier”), by and through the undersigned counsel, hereby files its Answer to Plaintiff’s First Amended Complaint (“Amended Complaint”) and states as follows:

I. NATURE OF THE CASE

1. Mobilite admits in part and denies in part the allegations set forth in paragraph 1. Mobilite admits that Plaintiff purports to bring this as an action for pursuant to Title VII of the Civil Rights Act of 1964 (“Title VII”), but it denies that there has been any violation of Title VII and further denies that Plaintiff is entitled to any relief under that statute, and demands strict proof thereof.

II. JURISDICTION AND VENUE

2. Mobilite admits the allegations set forth in paragraph 2 pertaining to Title VII and for jurisdictional purposes only pursuant to 28 U.S.C. § 451, 1331, 1345, and it denies that there has

been any violation of law and further denies that Plaintiff is entitled to any relief under that statute or any other statute, and demands strict proof thereof.

3. Mobilitie admits the allegation of paragraph 3.

4. Mobilitie admits the allegation of paragraph 4.

5. Mobilitie admits the allegation of paragraph 5.

6. Mobilitie admits the allegation of paragraph 6.

7. Mobilitie admits only the allegation of paragraph 7 which pertains to Plaintiff filing the Amended Complaint within 90 days of receipt of the Notice of Right to Sue, but denies that a copy of the Plaintiff's Notice of Right to Sue was attached to the Amended Complaint.

III. PARTIES

8. Mobilitie is without sufficient knowledge and information to form a belief about the truth of the allegation of paragraph 8, and therefore denies the allegation contained therein, and demands strict proof thereof.

9. Mobilitie admits the allegation of paragraph 9.

10. Paragraph 10 of the Amended Complaint solely contains legal conclusions to which no response is required. To the extent that a response is required, Mobilitie denies the allegations contained in this Paragraph, and demands strict proof thereof.

IV. FACTUAL ALLEGATIONS

Mobilitie reasserts its responses to Paragraphs 1 through 10 of the Amended Complaint as if fully set forth herein.

11. Mobilitie admits the allegation of paragraph 11.

12. Paragraph 12 of the Complaint solely contains legal conclusions to which no response is required. To the extent that a response is required, Mobilitie denies the allegations contained in this Paragraph, and demands strict proof thereof.

13. Mobilitie denies the allegation of paragraph 13, and demands strict proof thereof.

14. Mobilitie denies the allegation of paragraph 14, and demands strict proof thereof.

15. Mobilitie denies the allegation of paragraph 15 as phrased, and demands strict proof thereof.

16. Mobilitie denies the allegation of paragraph 16, and demands strict proof thereof.

17. Mobilitie denies the allegation of paragraph 17, and demands strict proof thereof.

18. Mobilitie denies the allegation of paragraph 18, and demands strict proof thereof.

19. Mobilitie denies the allegation of paragraph 19, and demands strict proof thereof.

20. Mobilitie denies the allegation of paragraph 20, and demands strict proof thereof.

21. Mobilitie denies the allegation of paragraph 21, and demands strict proof thereof.

22. Mobilitie denies the allegation of paragraph 22, and demands strict proof thereof.

23. Mobilitie denies the allegation of paragraph 23, and demands strict proof thereof.

24. Mobilitie denies the allegation of paragraph 24, and demands strict proof thereof.

25. Mobilitie denies the allegation of paragraph 25, and demands strict proof thereof.

26. Mobilitie denies the allegation of paragraph 26, and demands strict proof thereof.

27. Mobilitie denies the allegation of paragraph 27, and demands strict proof thereof.

28. Mobilitie denies the allegation of paragraph 28, and demands strict proof thereof.

29. Mobilitie denies the allegation of paragraph 29 as phrased, and demands strict proof thereof.

30. Mobilitie is without sufficient knowledge and information to form a belief about the truth of the allegation of paragraph 30, and therefore denies the allegation contained therein, and demands strict proof thereof.

31. Mobilitie is without sufficient knowledge and information to form a belief about the truth of the allegation of paragraph 31, and therefore denies the allegation contained therein, and demands strict proof thereof.

32. Mobilitie is without sufficient knowledge and information to form a belief about the truth of the allegation of paragraph 32, and therefore denies the allegation contained therein, and demands strict proof thereof.

33. Mobilitie admits the allegations of paragraph 33.

34. Mobilitie denies the allegation of paragraph 34, and demands strict proof thereof.

35. Mobilitie denies the allegation of paragraph 35, and demands strict proof thereof.

36. Mobilitie denies the allegation of paragraph 36, and demands strict proof thereof.

37. Mobilitie denies the allegation of paragraph 37, and demands strict proof thereof.

38. Mobilitie denies the allegation of paragraph 38, and demands strict proof thereof.

39. Mobilitie denies the allegation of paragraph 39, and demands strict proof thereof.

40. Mobilitie is without sufficient knowledge and information to form a belief about the truth of the allegation of paragraph 40, and therefore denies the allegation contained therein, and demands strict proof thereof.

41. Mobilitie denies the allegation of paragraph 41, and demands strict proof thereof.

42. Mobilitie denies the allegation of paragraph 42, and demands strict proof thereof.

43. Mobilitie denies the allegation of paragraph 43, and demands strict proof thereof.

44. Mobilitie denies the allegation of paragraph 44, and demands strict proof thereof.

45. Mobilitie denies the allegation of paragraph 45, and demands strict proof thereof.

46. Mobilitie admit the allegation of paragraph 46.

47. Mobilitie denies the allegation of paragraph 47, and demands strict proof thereof.

48. Mobilitie denies the allegation of paragraph 48, and demands strict proof thereof.

49. Mobilitie denies the allegation of paragraph 49, and demands strict proof thereof.

50. Mobilitie denies the allegation of paragraph 50, and demands strict proof thereof.

51. Mobilitie is without sufficient knowledge and information to form a belief about the truth of the allegation of paragraph 51, and therefore denies the allegation contained therein, and demands strict proof thereof.

52. Mobilitie denies the allegation of paragraph 52, and demands strict proof thereof.

53. Mobilitie denies the allegation of paragraph 53, and demands strict proof thereof.

54. Mobilitie denies the allegation of paragraph 54, and demands strict proof thereof.

55. Mobilitie denies the allegation of paragraph 55, and demands strict proof thereof.

56. Mobilitie denies the allegation of paragraph 56, and demands strict proof thereof.

57. Mobilitie denies the allegation of paragraph 57, and demands strict proof thereof.

58. Mobilitie denies the allegation of paragraph 58, and demands strict proof thereof.

59. Mobilitie denies the allegation of paragraph 59, and demands strict proof thereof.

60. Mobilitie denies the allegation of paragraph 60, and demands strict proof thereof.

61. Mobilitie denies the allegation of paragraph 61, and demands strict proof thereof.

62. Mobilitie denies the allegation of paragraph 62, and demands strict proof thereof.

63. Mobilitie is without sufficient knowledge and information to form a belief about the truth of the allegation of paragraph 63, and therefore denies the allegation contained therein, and demands strict proof thereof.

64. Mobilitie is without sufficient knowledge and information to form a belief about the truth of the allegation of paragraph 64, and therefore denies the allegation contained therein, and demands strict proof thereof.

65. Mobilitie is without sufficient knowledge and information to form a belief about the truth of the allegation of paragraph 65, and therefore denies the allegation contained therein, and demands strict proof thereof.

66. Mobilitie denies the allegation of paragraph 66, and demands strict proof thereof.

67. Mobilitie denies the allegation of paragraph 67, and demands strict proof thereof.

68. Mobilitie denies the allegation of paragraph 68, and demands strict proof thereof.

69. Mobilitie is without sufficient knowledge and information to form a belief about the truth of the allegation of paragraph 69, and therefore denies the allegation contained therein, and demands strict proof thereof.

70. Mobilitie denies the allegation of paragraph 70, and demands strict proof thereof.

71. Mobilitie denies the allegation of paragraph 71, and demands strict proof thereof.

72. Mobilitie denies the allegation of paragraph 72, and demands strict proof thereof.

73. Mobilitie is without sufficient knowledge and information to form a belief about the truth of the allegation of paragraph 73, and therefore denies the allegation contained therein, and demands strict proof thereof.

74. Mobilitie is without sufficient knowledge and information to form a belief about the truth of the allegation of paragraph 74, and therefore denies the allegation contained therein, and demands strict proof thereof.

75. Mobilitie is without sufficient knowledge and information to form a belief about the truth of the allegation of paragraph 75, and therefore denies the allegation contained therein, and demands strict proof thereof.

76. Mobilitie denies the allegation of paragraph 76, and demands strict proof thereof.

77. Mobilitie denies the allegation of paragraph 77, and demands strict proof thereof.

78. Mobilitie denies the allegation of paragraph 78, and demands strict proof thereof.

79. Mobilitie denies the allegation of paragraph 79, and demands strict proof thereof.

80. Mobilitie denies the allegation of paragraph 80, and demands strict proof thereof.

81. Mobilitie denies the allegation of paragraph 81, and demands strict proof thereof.

82. Mobilitie denies the allegation of paragraph 82, and demands strict proof thereof.

83. Mobilitie denies the allegation of paragraph 83, and demands strict proof thereof.

84. Mobilitie denies the allegation of paragraph 84, and demands strict proof thereof.

85. Mobilitie denies the allegation of paragraph 85, and demands strict proof thereof.

86. Mobilitie admits the allegation of paragraph 86.

87. Mobilitie denies the allegation of paragraph 87, and demands strict proof thereof.

88. Mobilitie denies the allegation of paragraph 88, and demands strict proof thereof.

89. Mobilitie denies the allegation of paragraph 89 as phrased, and demands strict proof thereof.

90. Mobilitie admits the allegation of paragraph 90.

91. Mobilitie denies the allegation of paragraph 91, and demands strict proof thereof.

92. Mobilitie denies the allegation of paragraph 92, and demands strict proof thereof.

V. COUNT I RACE BASE[D] DISCRIMINATION

93. Mobilitie reasserts its responses to Paragraphs 1 through 92 of the Amended Complaint as if fully set forth herein and it denies that there has been any violation of law and further denies that Plaintiff is entitled to any relief under that statute or any other, and demands strict proof thereof.

94. Mobilitie denies the allegation of paragraph 94, and demands strict proof thereof.

95. Mobilitie denies the allegation of paragraph 95, and demands strict proof thereof.

VI. COUNT II STAFFING DISCRIMINATION

96. Mobilitie reasserts its responses to Paragraphs 1 through 92 of the Amended Complaint as if fully set forth herein and it denies that there has been any violation of law and further denies that Plaintiff is entitled to any relief under that statute or any other, and demands strict proof thereof.

97. Paragraph 97 of the Amended Complaint solely contains legal conclusions to which no response is required. To the extent that a response is required, Mobilitie denies the allegations contained in this Paragraph, and demands strict proof thereof.

98. Mobilitie denies the allegation of paragraph 98, and demands strict proof thereof.

99. Mobilitie denies the allegation of paragraph 99, and demands strict proof thereof.

100. Mobilitie denies the allegation of paragraph 100, and demands strict proof thereof.

101. Mobilitie denies the allegation of paragraph 101, and demands strict proof thereof.

VII. COUNT III RETALIATION

102. Mobilitie reasserts its responses to Paragraphs 1 through 92 of the Amended Complaint as if fully set forth herein and it denies that there has been any violation of law and further denies that Plaintiff is entitled to any relief under that statute or any other, and demands strict proof thereof.

103. Mobilitie denies the allegation of paragraph 103, and demands strict proof thereof.

104. Mobilitie denies the allegation of paragraph 104, and demands strict proof thereof.

Mobilitie denies that Plaintiff is entitled to any of the relief requested in the ad damnum clause of Prayer for Relief in Amended Complaint, including all subparts.

DEMAND FOR TRIAL BY JURY

Defendant admits that Plaintiff demands a jury trial on all issues triable but denies that any triable issues exist.

STATEMENT OF DEFENSES

As separate defenses and without conceding that the Mobilitie bears the burden of proof or persuasion as to any of them, Mobilitie alleges as follows:

1. Plaintiff's Amended Complaint fails to state a claim upon which relief can be granted.
2. Plaintiff's claims may be barred, in whole or in part, to the extent that they exceed the scope of his Charge of Discrimination.
3. Plaintiff's claims are barred on the grounds that even if any decision concerning Plaintiff was based, in part, on discriminatory and/or retaliatory grounds (which none was), Defendant would have reached the same decision absent any alleged improper motive.

4. Any and all actions taken by Defendant with respect to Plaintiff's applications for employment were based on legitimate non-discriminatory, non-retaliatory business reasons and were taken without regard to Plaintiff's race or color (or any other protected category).

5. Plaintiff's claims and/or claims for damages are barred because Defendant exercised reasonable care to prevent and correct promptly any alleged discriminatory or retaliatory behavior.

6. Defendant made good faith efforts to prevent discrimination and retaliation in its workplace, and thus cannot be liable for the decisions of its agents, or punitive damages, to the extent the challenged employment decisions were contrary to its efforts to comply with anti-discrimination and/or anti-retaliation statutes.

7. Plaintiff's claims for damages may be barred, in whole or in part, to the extent that he failed to reasonably mitigate his damages. Defendant is entitled to a set-off against Plaintiff's claims for damages in the amount(s) that Plaintiff did or could have earned through reasonable efforts.

8. Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations or equitable doctrines of waiver, estoppel, laches and/or unclean hands.

9. Plaintiff's claims are barred to the extent that, if any employee of Defendant acted in a manner that violated Plaintiff's rights and/or caused him harm, any such action(s) were committed outside the scope or course of the employee's employment and without Defendant's consent, knowledge or ratification.

10. To the extent any actions taken by Defendant regarding Plaintiff were taken in good faith, in accordance with Defendant's internal policies, and not taken wantonly or with malice or bad faith and/or reckless indifference to Plaintiff's protected rights, Defendant did not willfully

violate any law with respect to its treatment of Plaintiff, thereby negating Plaintiff's entitlement to punitive damages.

11. To the extent that Plaintiff seeks an award of punitive damages, such damages are unavailable under applicable law and/or are barred based on Defendant's good faith efforts to comply with the law.

Dated: 1st of June, 2017

Respectfully submitted,

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Attorney for Defendant
Mobilitie Management, LLC

CERTIFICATE OF SERVICE

I certify that, on this 5th day of May, 2017, a copy hereof was served via email, U.S. mail and Federal Express to:

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/s/ Grissel Seijo
Grissel Seijo, Esq.