

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

MICHAEL WALLER,)

Plaintiff,)

COMMERCE BANK)

Serve Registered Agent:)

COMMERCE BANCSHARES, INC.)

1000 Walnut Street, 4th Floor)

Kansas City, MO 64105)

and)

MARY "JO" BURDETTE)

Hold Service.)

and)

ANN BRONSON)

Hold Service.)

Defendants.)

Case No. _____

DEMAND FOR JURY TRIAL

COMPLAINT

COMES NOW, Plaintiff Michael Waller (hereinafter "Plaintiff"), by and through his undersigned attorney, and for his causes of action against Defendants Commerce Bank (hereinafter "Defendant Commerce"), Mary "Jo" Burdette (hereinafter "Defendant Burdette") and Ann Bronson (hereinafter "Defendant Bronson"), alleging and stating as follows:

TABLE OF CLAIMS

Claim	Type	Page No.
Race Discrimination, MHRA	TJ	
Retaliation, MHRA	TJ	

PARTIES

1. Plaintiff is an individual residing in the state of Missouri.
2. Defendant Commerce is a for-profit banking association and trust, and is an organized group of persons, with its headquarters located in the state of Missouri.
3. Defendant Commerce is a “person” as that term is defined by the Missouri Human Rights Act, RSMo. § 213.010 *et seq.*
4. Defendant Burdette is an individual who, at the pertinent times in this Petition, was the branch manager of Defendant Commerce’s bank located at 6100 Troost Avenue, Kansas City, Missouri.
5. Defendant Burdette is a “person” as that term is defined by the Missouri Human Rights Act, RSMo. § 213.010 *et seq.*
6. Defendant Bronson is an individual who, at the pertinent times in this Petition, was an employee of Defendant Commerce.
7. Defendant Bronson is a “person” as that term is defined by the Missouri Human Rights Act, RSMo. § 213.010 *et seq.*

JURISDICTION AND VENUE

8. This is an action against Defendants for race discrimination and retaliation in public accommodation under the MHRA, RSMo. § 213.065.
9. As explained herein, this Court has proper jurisdiction and venue over all factual and legal matters relevant to this cause of action.
10. Unlawful acts, omissions, behaviors, events, policies, and practices set forth below were committed in Jackson County, Missouri.

11. Defendant Commerce has multiple place of business offering or holding out to the general public, services, privileges, facilities, advantages, and accommodations for the comfort, health and welfare of the general public.

12. At all relevant times, Defendant Commerce has maintained, owned, managed, and/or operated a place of business in Jackson County, Missouri.

13. At all relevant times, Defendant Jo worked for Defendant Commerce as a branch manager in Jackson County, Missouri.

14. Jurisdiction and venue are proper in Jackson County, Missouri, pursuant to RSMo. §§ 508.010 and 213.111(1), (2).

ADMINISTRATIVE PROCEDURES

15. On or about November 21, 2023, Plaintiff timely filed a Charge of Discrimination with the Missouri Commission on Human Rights (“MCHR”). The Charge of Discrimination is attached hereto as Exhibit A and incorporated herein as if fully set forth.

16. On or about August 23, 2024, the MCHR issued to Plaintiff a Notice of Right to Sue and this lawsuit has been filed within 90 days of the issuance of the MCHR's Notice of Right to Sue. The Notice of Right to Sue is attached hereto as Exhibit B and incorporated herein as if fully set forth.

17. The aforementioned Charge of Discrimination provided the MCHR sufficient opportunity to investigate the full scope of the controversy between the parties and, accordingly, the sweep of this judicial complaint may be and is as broad as the scope of a MCHR investigation which could reasonably be expected to have grown out of the Charge of Discrimination.

18. Upon information and belief, all Defendants received notice of the aforementioned Charge of Discrimination.

19. Plaintiff has satisfied all private, administrative, and judicial prerequisites to the institution of this action and it has been filed within the requisite statute of limitations.

GENERAL ALLEGATIONS

20. Plaintiff is Black.

21. Plaintiff is a member of a class protected by the MHRA: race.

22. Defendants did not provide Plaintiff with full and equal use and enjoyment of their places of public accommodation.

23. Plaintiff was subjected to discrimination because of his race by Defendants.

24. Defendants, directly or indirectly, refused, withheld from, and denied, and attempted to refuse, withhold from, and deny Plaintiff the accommodations, advantages, facilities, services, and privileges made available in Defendant's place of public accommodation.

25. At all relevant times, Defendant Commerce has operated a bank branch at 6100 Troost Avenue, Kansas City, Missouri (the "Troost Branch").

26. Defendant Commerce owns and operates the Troost Branch.

27. The Troost Branch is open to the public.

28. Defendant Commerce offers banking services to the public, both at the Troost Branch and elsewhere, including retail financial services such as check cashing, bank accounts, and financial lending services.

29. Defendant Commerce offers facilities, services, and accommodations to the public, both at the Troost Branch and elsewhere.

30. On or about June 20, 2023, Plaintiff visited the Commerce Bank branch located at 9501 Antioch Rd., Overland Park, KS (the "Antioch Branch").

31. There, Plaintiff sought to open two business banking accounts for two separate businesses.

32. In response, Plaintiff was told by a Caucasian banker that Plaintiff needed certain documentation to open the business banking accounts.

33. The next day, on or about June 21, 2023, Plaintiff again visited the Antioch Branch.

34. Plaintiff met with a Caucasian banker and was told that more information was still needed to open the business accounts.

35. Plaintiff left the Antioch Branch to obtain the additional information that the bank had requested.

36. On or about June 27, 2023, Plaintiff again visited the Antioch Branch.

37. Plaintiff spoke with the same Caucasian banker he had spoken to on June 21, 2023.

38. Plaintiff had brought with him the necessary paperwork to open the business accounts.

39. The Caucasian banker then began asking Plaintiff questions in a "stand-offish" manner.

40. The Caucasian banker asked Plaintiff "Where do you live?"

41. The Caucasian banker asked Plaintiff "Why did you come out here to open an account?"

42. The Caucasian banker asked Plaintiff “Couldn’t you have opened an account closer to where you live?”

43. Upon information and belief, these comments were made because of Plaintiff’s race and the race of his fiancé, who was also present with him and is also Black.

44. Plaintiff responded to the Caucasian banker’s comments by explaining why he sought to open the business accounts at the Antioch Branch.

45. Eventually, the Caucasian banker stated, “No. You cannot. You cannot open an account here.”

46. Plaintiff was taken aback by this refusal of service.

47. Plaintiff responded by asking the Caucasian banker, “Why?”

48. Plaintiff also complained of the discrimination he was facing to the Caucasian banker by asking “are you prejudiced?”

49. The Caucasian banker responded by retaliating against Plaintiff and discriminating against him.

50. The Caucasian banker reported Plaintiff’s information to Defendant Commerce’s fraud investigative department.

51. As Plaintiff was leaving the Antioch Branch, the police arrived.

52. Plaintiff was shocked and afraid for his safety and that of his fiancé, who was present with him.

53. Later that day, on June 27, 2023, Plaintiff went to the Commerce Bank branch at 6100 Troost Avenue, Kansas City, Missouri.

54. There, Plaintiff spoke to Defendant Burdette, who was the Caucasian manager of the bank.

55. Plaintiff, along with his fiancé, complained to the Defendant Burdette that they were subjected to prejudice and described what happened at the Antioch Branch.

56. Plaintiff requested to open his business banking accounts at the Troost Branch.

57. In response, Defendant Burdette refused to open the business accounts for Plaintiff.

58. Defendant Burdette also informed Plaintiff that the investigations department in downtown Kansas City, Missouri was refusing to allow Plaintiff to open business accounts with Commerce Bank.

59. Defendant Burdette did not take adequate steps to fix this refusal of service.

60. Defendant Burdette denied Plaintiff services offered by the Troost Branch.

61. On or about July 10, 2023, Plaintiff went to the Antioch Branch to close his personal account.

62. While there, he reported the discrimination and retaliation that he had experienced.

63. Nothing was done to fix the discriminatory and retaliatory conduct.

64. Plaintiff then called Defendant Commerce's complaint phone line which, upon information and belief, is connected to St. Louis, Missouri.

65. Plaintiff spoke to Defendant Ann Bronson and voiced his complaints of racial discrimination.

66. Plaintiff requested services of Defendant Ann Bronson: to remedy the discriminatory treatment he had experienced.

67. Plaintiff never received any follow up from any Defendant regarding the matter.

68. Defendant Ann Bronson denied services to Plaintiff.

69. Plaintiff had planned to open his businesses in the state of Missouri.

70. The discriminatory conduct Plaintiff experienced delayed Plaintiff's ability to conduct business Missouri, resulting in damage.

71. Notably, Plaintiff was later able to open the business accounts at another bank without issue.

COUNT I

Race Discrimination in Public Accommodation, MHRA

72. Plaintiff incorporates the allegations contained in the above-stated paragraphs as if fully set forth herein.

73. Plaintiff is Black.

74. Defendants were aware of Plaintiff's race.

75. Plaintiff's race was the motivating factor in the discriminatory actions he experienced, as described herein.

76. Defendants denied Plaintiff, on the basis of Plaintiff's race, the full and equal use and enjoyment of the services, facilities, privileges, advantages, and accommodations of a place of public accommodation.

77. Plaintiff was denied services, privileges, facilities, advantages, and accommodations by Defendants because of his race.

78. At all pertinent times herein, the employees aforementioned were agents, servants, and employees of Defendant Commerce and were at all such times acting within the scope and course of their agency and employment, and/or their actions were expressly authorized by Defendant Commerce, thus making Defendant Commerce liable for such actions.

79. Defendants directly or indirectly refused, withheld or attempted to withhold the accommodations, advantages, facilities, services, and privileges from Plaintiff made available in a place of public accommodation.

80. Defendants failed to make good faith efforts to establish, enforce, and carry out policies and procedures to prevent illegal discrimination.

81. Defendants failed to take such steps as were necessary to ensure that Plaintiff was not excluded, denied services, segregated, or otherwise treated differently due to his race.

82. Plaintiff's race actually played a role in the discrimination described herein and had a determinative influence on the behavior inflicted on Plaintiff.

83. Defendants knew, or should have known, of the discrimination described herein but failed to take prompt remedial action to stop it.

84. Defendants treated Plaintiff differently, and more negatively, than others because of his race.

85. All actions or inactions of or by Defendants occurred by Defendants themselves or through their owners, agents, servants, managers, members, or employees acting within the course and scope of their employment.

86. As a direct and proximate result of the unlawful conduct of Defendants, as set forth herein, Plaintiff has suffered damages which include: mental anguish, emotional distress, pain and suffering, mental distress, embarrassment, degradation, humiliation, anxiety, loss of enjoyment of life, and other nonpecuniary losses, all of a continuing and permanent nature.

87. As a direct and proximate result of the unlawful conduct of Defendants, as set forth herein, Plaintiff has suffered damages including lost business income and profits.

88. The conduct of Defendants was outrageous and evidenced an evil motive and/or conscious disregard for the rights of Plaintiff and others, entitling Plaintiff to an award of punitive damages.¹

89. Plaintiff has incurred, will incur, and/or continues to incur, costs, expenses, expert witness fees, and attorneys' fees, and seeks the same from the Court.

90. Plaintiff seeks the Court's ruling that Plaintiff is the prevailing party in this matter.

91. Plaintiff seeks the Court's order granting equitable relief to require Defendants to comply with the MHRA and to make Plaintiff whole.

92. Plaintiff seeks pre judgment interest and post judgment interest.

93. Plaintiff seeks all damages permitted by law.

94. Plaintiff requests damages in an amount which is fair and reasonable.

WHEREFORE, Plaintiff prays for judgment against the Defendants jointly and severally, for all damages available under law, for all damages stated herein, for actual, compensatory, special, and punitive damages² in an amount which is fair and reasonable, a finding that he is the prevailing party in this matter, all costs, expenses, expert witness fees and attorneys' fees incurred herein, and for equitable relief, for pre and post judgment interest at the highest lawful rate, and for such other relief as the Court deems just and proper.

COUNT II

Retaliation in Public Accommodation, MHRA

¹ Plaintiff's claim of punitive damages is made conditionally, based upon Plaintiff's understanding that RSMo. § 510.261 does not apply to his claim under the MHRA. *See, e.g., McNeil v. Brookfield Master Tenant, LLC*, No. 2116-CV13820 (Jackson Co. Dec. 15, 2021). To the extent the statute does apply, Plaintiff does not seek punitive damages at this time, but will seek to amend this Petition to include such damages pursuant to the statute.

² Plaintiff's claim of punitive damages is made conditionally, based upon Plaintiff's understanding that RSMo. § 510.261 does not apply to his claim under the MHRA. *See, e.g., McNeil v. Brookfield Master Tenant, LLC*, No. 2116-CV13820 (Jackson Co. Dec. 15, 2021). To the extent the statute does apply, Plaintiff does not seek punitive damages at this time, but will seek to amend this Petition to include such damages pursuant to the statute.

95. Plaintiff incorporates the allegations contained in the above-stated paragraphs as if fully set forth herein.

96. Plaintiff engaged in protected activity under the MHRA by reporting the discrimination he was experiencing to Defendants.

97. Defendants took adverse actions against Plaintiff as a direct result of Plaintiff's complaints of discrimination.

98. Due to Plaintiff engaging in protected activity, Defendants failed to take such steps as were necessary to ensure that Plaintiff was not excluded, denied services, segregated, or otherwise treated differently.

99. Defendants knew, or should have known, of the retaliation described herein but failed to take prompt remedial action to stop it.

100. Plaintiff engaging in protected activity actually played a role in the adverse actions and decisions described herein and had a determinative influence on the adverse decisions and actions.

101. Defendants treated Plaintiff differently, and more negatively, than others because of him engaging in protected activity.

102. Defendants retaliated against Plaintiff because he engaged in protected activity.

103. Defendants incorrectly applied their policies and procedures in regard to Plaintiff because of him engaging in protected activity.

104. Defendants deprived Plaintiff of full and equal use and enjoyment of a place of public accommodation because Plaintiff engaged in protected activity.

105. Defendants refused, withheld from and denied Plaintiff the accommodations, advantages, facilities, services, and/or privileges available in its places of public accommodation because he engaged in protected activity.

106. Defendants have failed to follow policies and procedures in regard to Plaintiff as to investigating his complaints due to him engaging in protected activity.

107. Defendant's actions constitute unlawful retaliation against Plaintiff in violation of the MHRA.

108. All actions or inactions of or by Defendants occurred by Defendants themselves or through their owners, agents, servants, managers, members, or employees acting within the course and scope of their employment.

109. As a direct and proximate result of the unlawful conduct of Defendants, as set forth herein, Plaintiff has suffered damages which include: mental anguish, emotional distress, pain and suffering, mental distress, embarrassment, degradation, humiliation, anxiety, loss of enjoyment of life, and other nonpecuniary losses, all of a continuing and permanent nature.

110. As a direct and proximate result of the unlawful conduct of Defendants, as set forth herein, Plaintiff has suffered damages including lost business income and profits.

111. The conduct of Defendants was outrageous and evidenced an evil motive and/or conscious disregard for the rights of Plaintiff and others, entitling Plaintiff to an award of punitive damages.³

112. Plaintiff has incurred, will incur, and/or continues to incur, costs, expenses, expert witness fees, and attorneys' fees, and seeks the same from the Court.

³ Plaintiff's claim of punitive damages is made conditionally, based upon Plaintiff's understanding that RSMo. § 510.261 does not apply to his claim under the MHRA. *See, e.g., McNeil v. Brookfield Master Tenant, LLC*, No. 2116-CV13820 (Jackson Co. Dec. 15, 2021). To the extent the statute does apply, Plaintiff does not seek punitive damages at this time, but will seek to amend this Petition to include such damages pursuant to the statute.

113. Plaintiff seeks the Court's ruling that Plaintiff is the prevailing party in this matter.

114. Plaintiff seeks the Court's order granting equitable relief to require Defendants to comply with the MHRA and to make Plaintiff whole.

115. Plaintiff seeks pre judgment interest and post judgment interest.

116. Plaintiff seeks all damages permitted by law.

117. Plaintiff requests damages in an amount which is fair and reasonable.

WHEREFORE, Plaintiff prays for judgment against the Defendants jointly and severally, for all damages available under law, for all damages stated herein, for actual, compensatory, special, and punitive damages⁴ in an amount which is fair and reasonable, a finding that he is the prevailing party in this matter, all costs, expenses, expert witness fees and attorneys' fees incurred herein, and for equitable relief, for pre and post judgment interest at the highest lawful rate, and for such other relief as the Court deems just and proper.

Demand for Jury Trial

Plaintiff respectfully requests a trial by jury, in the Circuit Court of Jackson County, Missouri at Kansas City, on all counts and allegations of wrongful conduct alleged in this Petition for Damages.

⁴ Plaintiff's claim of punitive damages is made conditionally, based upon Plaintiff's understanding that RSMo. § 510.261 does not apply to his claim under the MHRA. *See, e.g., McNeil v. Brookfield Master Tenant, LLC*, No. 2116-CV13820 (Jackson Co. Dec. 15, 2021). To the extent the statute does apply, Plaintiff does not seek punitive damages at this time, but will seek to amend this Petition to include such damages pursuant to the statute.

Respectfully submitted,

EDELMAN, LIESEN & MYERS L.L.P.

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