

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

Case

No. 2:05CV-0799

-vs-

JUDGE

FROST

STATE OF OHIO; OHIO ENVIRONMENTAL
PROTECTION AGENCY; OHIO DEPARTMENT
OF ADMINISTRATIVE SERVICES, *et al.*,

MAGISTRATE JUDGE KING

Defendants.

* * * * *

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

Case

No. C2-05-881

-vs-

JUDGE

FROST

OHIO CIVIL SERVICE EMPLOYEES
ASS'N, LOCAL 11, AFSCME, AFL-CIO, *et al.*,

MAGSTR

ATE JUDGE KING

Defendants.

**ANSWER OF DEFENDANTS STATE OF OHIO, OHIO ENVIRONMENTAL
PROTECTION AGENCY, AND OHIO DEPARTMENT OF ADMINISTRATIVE
SERVICES OF FIRST AMENDED COMPLAINT
OF INTERVENOR GLEN GREENWOOD**

For their answer to the first amended complaint of intervenor Glen Greenwood herein, the defendants State of Ohio (not including the State Employment Relations Board), the Ohio Environmental Protection Agency [“OEPA”], and the Ohio Department of Administrative Services [“ODAS”], through counsel, aver as follows:

1) The allegations of ¶¶ 3, 5, 6, 7, 9 and 25 of the first amended complaint are admitted.

- 2) The allegations of ¶¶ 19, 20, 23 and 24 of the first amended complaint are denied.
- 3) It is admitted that Greenwood invokes Title VII of the Civil Rights Act of 1964 in this action, that venue and jurisdiction are proper, and that Greenwood requested an accommodation of his putative religious beliefs. It is denied that the State of Ohio, ODAS or OEPA, or the State Employment Relations Board [“SERB”], are properly named under Fed. R. Civ. P. 19(a). The remaining allegations of ¶¶ 1 and 2 of the first amended complaint are denied.
- 4) It is admitted that the EEOC has filed this action, and its complaint speaks for itself. The remaining allegations of ¶ 4 of the first amended complaint are denied.
- 5) It is admitted that ODAS and OEPA are an “employer” under 42 U.S.C. § 2000e. The remaining allegations of ¶ 8 of the first amended complaint are denied.
- 6) The allegations of ¶¶ 10 through 12 of the first amended complaint are denied for lack of knowledge. It is specifically denied that Greenwood’s objections are “religious” within the meaning of Title VII.
- 7) It is admitted that Greenwood corresponded with the Ohio Civil Service Employees Association, Local 11, AFSCME, AFL-CIO [“OCSEA”], and filed an application to SERB seeking to redirect his fair share fee to a non-religious charity, and that his application was denied. Greenwood’s correspondence and application, and SERB’s decision, speak for themselves. The remaining allegations of ¶¶ 13 through 16 of the first amended complaint are denied.
- 8) It is admitted that Greenwood filed a charge with the EEOC, and that conciliation was attempted but failed. The remaining allegations of ¶¶ 17 and 18 of the first amended complaint are denied.

9) It is admitted that OCSEA filed a counterclaim in this action, which speaks for itself. The remaining allegations of ¶¶ 21 and 22 of the first amended complaint are denied.

10) Any allegation in the complaint of intervenor Greenwood, not specifically and explicitly admitted herein, is denied.

AFFIRMATIVE DEFENSES

11) The first amended complaint fails to state a claim upon which relief can be granted.

12) Greenwood's objection to the payment of fair share fees is neither *bona fide* nor is it religious in nature.

13) Each and every accommodation demanded by Greenwood has been unreasonable.

14) Greenwood has failed to exhaust his administrative remedies as to some or all of his claims.

15) Greenwood's claims against the State of Ohio, if any, are barred by the Eleventh Amendment to the United States Constitution and/or by sovereign immunity.

WHEREFORE, the defendants State of Ohio (not including the State Employment Relations Board), OEPA and ODAS pray that the first amended complaint of intervenor Greenwood be dismissed at Greenwood's cost.

Respectfully submitted,

JIM PETRO
The Attorney General of Ohio

/s/ Jack W. Decker

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Environmental Protection Agency

CERTIFICATE OF SERVICE

This will certify that the foregoing was filed electronically on June 21, 2006.
Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.
Parties may access this filing through the Court's system.

/s/ Jack W. Decker

JACK W. DECKER
Assistant Attorney General

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