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**State Agency Litigation Notification Form**

**Dear Agency Director:**

**Arkansas Code § 10-3-312 requires that any agency or institution that is not represented by the Attorney General shall notify the Director of the Bureau of Legislative Research of pending litigation so that the appropriate legislative committee may “determine the action that may be deemed necessary to protect the interests of the General Assembly and the State of Arkansas in that matter.”**

**In order to submit a report regarding pending litigation pursuant to Arkansas Code § 10-3-312, please complete the following form for each pending lawsuit, along with a cover letter to the Director of the Bureau of Legislative Research, and submit to [desikans@blr.arkansas.gov](mailto:desikans@blr.arkansas.gov).**

<b>DATE REPORTING:</b>			
Agency:	Arkansas Department of Corrections/Division of Community	Phone:	501-682-3849
E-mail:	Bilenda.Harris-Ritter@arkansas.gov	Contact:	Bilenda Harris-Ritter
<b>1. STYLE OF THE CASE BEING LITIGATED</b>			
Demario Moss v. Arkansas Department of Corrections/Division of Community Correction, Case No. 4:21-CV-485KGB			
<b>2. IDENTITY OF THE TRIBUNAL BEFORE WHICH THE MATTER HAS BEEN FILED (COURT)</b>			
United States District Court for the Eastern District of Arkansas			
<b>3. BRIEF DESCRIPTION OF THE ISSUES INVOLVED</b>			
Mr. Moss is a current employee of ACC. He alleged that ACC failed to promote him based on his race (African-American) in violation of Title VII of the Civil Rights Act. Mr. Moss also alleged that ACC retaliated against based on his race when it disciplined him and the disciplinary was later reversed.			
<b>3A. OTHER DESCRIPTION INFORMATION</b>			
Docket Number	4:21-CV-485KGB		
Date Filed	June 3, 2021		
Defendant	Arkansas Department of Corrections/Division of Community Correction		
Defendant Attorney	Senior Assistant Attorney General Maryna Jackson		
Plaintiff	Demario Moss		
Plaintiff Attorney	Austin Porter, Jr.,		
<b>4. ANY OTHER RELEVANT INFORMATION</b>			
n/a			
<b>4A. OTHER RELEVANT INFORMATION</b>			
Case History	The case was litigated and discovery was completed. The case is settled.		
Relief Sought	Compensatory damages, emotion al distress, and attorney's fees.		
Current Status	The case was settled.		

**FILED**  
U. S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION

JUN 03 2021

JAMES W. McCORMACK, CLERK  
By:  DEP CLERK

DEMARRIO MOSS

PLAINTIFF

VS.

CASE NO. 4:21-cv-485-KGB

ARKANSAS DEPARTMENT OF CORRECTION/  
DIVISION OF COMMUNITY CORRECTION

DEFENDANT

COMPLAINT

This case assigned to District Judge Baker  
and to Magistrate Judge Ervin

Introduction

This is a civil rights action brought pursuant to 42 U.S.C.S. § 2000 *et seq.* (Title VII of the Civil Rights Act of 1964, as amended), in order to recover damages against the defendant for the unlawful employment practices that the plaintiff **Demarrio Moss** has been subjected to on account of his race. After complaining about discrimination, the plaintiff was subjected to retaliation, which will be plead at a later date. This is also an action for declaratory judgment pursuant to 28 U.S.C.S. § 2201 to declare the rights and other legal relations between the parties. The plaintiff is also seeking equitable relief and injunctive relief as well.

I.

Jurisdiction

1. Jurisdiction and venue of this Court are invoked pursuant to 28 U.S.C. §§ 1331, 1343, 1391, 42 U.S.C.S. § 2000e *et seq.* (Title VII of the Civil Rights Act of 1964, as amended).
2. The unlawful employment practices alleged to have been committed against the plaintiff, were committed in the State of Arkansas, and in Pulaski County, Arkansas.

II.

Parties

3. The plaintiff Demarrio Moss is an African-American male, and is a resident of the United States of America.

4. The Defendant Arkansas Department of Correction/Division of Community Correction (hereinafter referred to as the Division of Community Correction), is an agency of the State of Arkansas, and pursuant to Ark. Code Ann. § 12-27-125(a), “[t]here is established, under the supervision, control, and direction of the Board of Corrections, a Division of Community Correction.” As part of its responsibilities, the Division of Community Correction “shall have management and control over all community correction services.” *See* Ark. Code Ann. § 12-27-125(b)(2)(A). Also, the Division of Community Correction “[s]hall employ such officers, employees, and agents and shall secure such offices and quarters as deemed necessary to discharge the functions of the Division of Community Correction, and which are appropriately funded.” *See* Ark. Code Ann. § 12-27-125(b)(3).

5. The current director of the Division of Community Correction is Jerry Bradshaw, and the Cabinet Secretary is Solomon Graves.

6. The defendant Arkansas Department of Correction/Division of Community Correction is an employer within the meaning of 42 U.S.C.S. § 2000e (b), (g), and (h).

III.

Facts

7. The plaintiff was hired by the Division of Community Correction on or about November 7, 2007.

8. The plaintiff is currently employed as a Parole Agent, having responsibility for supervising the parole requirements of persons released from the Arkansas Department of Correction.

9. The plaintiff works within Area 8 of the Division of Community Correction, and Tim Warhurst is the Area Manager for District 8.

10. The plaintiff has a bachelor's degree in Criminal Justice, having obtained that degree in approximately May 2005.

11. The plaintiff also obtained a Master's Degree in Business Security Management in approximately May 2010.

12. On February 11, 2020, the Division of Community Correction advertised an Assistant Area Management position (Vacancy Announcement #2212-5067), for which the plaintiff applied

13. The defendant conducted interviews for this Assistant Area Management position on or about March 3, 2020.

14. The plaintiff was interviewed for this Assistant Area Management position on or about March 3, 2020.

15. Due to an alleged scoring error (the plaintiff was advised that a Caucasian male did not score as high as the defendant had wanted), the position was postponed, and the position was readvertised in June 2020.

16. Upon information and belief, the plaintiff obtained the highest score during the interview in March 2020.

17. The plaintiff did not discover that the defendant was not going to fill the Assistant Area Manager's position, until the position was readvertised during the month of June 2020.



18. A second round of interviews was conducted for the Assistant Area Manager's positions in June 2020.

19. The plaintiff was interviewed a second time for the Assistant Area Manager's position.

20. On August 10, 2020, the plaintiff was notified that some other person (Spencer Bennett) was selected for the position.

21. Spencer Bennett is a Caucasian male employee of the Division of Community Correction.

22. Upon information and belief, Mr. Bennett was hired by the Division of Community Correction in September 2013.

23. Shortly after being notified that he was not selected for the Assistant Area Manager's position, the plaintiff made an inquiry about the interviews that took place on or about March 3, 2020, but was told that the interview scores had been discarded.

24. Also, the plaintiff was told by Amber Schubert, General Counsel for the Division of Community Correction, that no such interviews were conducted on or about March 3, 2020, which is false.

IV.  
Title VII of the Civil Rights Act  
Race Discrimination

25. The plaintiff incorporates by reference the allegations contained in paragraphs 1-24 of the plaintiff's complaint, and adopts each as if set out herein word for word.

26. The plaintiff was denied the position of Assistant Area Manager on account of his race, after his interview on March 3, 2020.

27. Upon information and belief, the plaintiff was the most qualified candidate for the Assistant Area Manager's position, and received the highest score during the interviews that took place in March 2020.

28. The defendant was not satisfied with the fact that the plaintiff outscored the white applicant of its choice.

29. Once the defendant realized that the plaintiff had outscored its favored white candidate, the defendant decided to manipulate the process by tossing out the interview scores, and readvertising the position.

30. By tossing out the interview scores of the interviews that took place in March 2020, the defendant violated EEOC laws by not maintaining those employment records.

31. The defendant has refused to promote the plaintiff to the position of Assistant Area Manager, on account of his race in violation of Title VII of the Civil Rights Act of 1964 (as amended).

32. Furthermore, the defendant discriminated against the plaintiff on account of his race, when it denied him the Assistant Area Manager's position, when it selected a white applicant, who was significantly less qualified than the plaintiff in violation of Title VII of the Civil Rights Act of 1964 (as amended).

33. On December 15, 2020, the plaintiff filed a Charge of Discrimination (No. 493-2020-01902) with the Equal Employment Opportunity Commission (EEOC), contending that he had been discriminated against based on his race, when he was denied the opportunity to be promoted to the Assistant Area Manager's position both in March and July 2020.<sup>1</sup> (**See Charge of Discrimination attached herein as Plaintiff's Exhibit "A"**).

---

<sup>1</sup> The plaintiff made initial contact with the EEOC, but due to COVID-19 concerns, he was unable to get an appointment with representatives of the EEOC until December 15, 2020.

34. In response to the Plaintiff's Charge of Discrimination that he filed with the EEOC, said agency issued his a "Dismissal and Notice of Rights" letter dated March 8, 2021, which *inter alia* gave the plaintiff the right to sue the defendant within 90 days from the date he received the above-mentioned letter. **(A copy of said "Notice of Right to Sue" letter is attached to this complaint and is identified as Plaintiff's Exhibit "B").**

35. This cause of action is being brought within ninety (90) days of the plaintiff receiving his right-to-sue letter as referenced in paragraph 34 of this complaint.

36. Due to the above-mentioned acts of discrimination, the plaintiff has suffered mental anguish, embarrassment, lost wages, all in a manner to be proven at trial.

JURY DEMAND

37. The plaintiff requests that this matter be tried before a jury of twelve (12) fair and impartial citizens of this state.


THEREFORE, the plaintiff is seeking the following relief for the above mentioned described unlawful employment practices:

- a. declare that the plaintiff has been subjected to unlawful discriminatory practices;
- b. promoted to the position of Assistant Area Manager's position with back pay;
- c. the cost of prosecuting this action;
- d. attorney's fees;
- e. and for all other equitable, legal, and just relief.

Respectfully submitted,

PORTER LAW FIRM  
The Tower Building  
323 Center Street, Suite 1035  
Little Rock, Arkansas 72201  
Telephone: 501-244-8200  
Facsimile: 501-372-5567

Email: Aporte5640@aol.com

By:   
Austin Porter Jr., No. 86145

Dated this 3<sup>rd</sup> day of June 2021.



EEOC Form 5 (11/09)

<b>CHARGE OF DISCRIMINATION</b> 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): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC <b>493-2020-01902</b>	
_____ and EEOC _____ State or local Agency, if any			
Name (Indicate Mr., Ms., Mrs.) <b>MR. DEMARRIO A MOSS</b>		Home Phone	Year of Birth
Street Address		City, State and ZIP Code	
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, list under PARTICULARS below.)			
Name <b>DEPARTMENT OF CORRECTION/ DIVISION OF COMMUNITY CORRECTIONS</b>		No. Employees, Members <b>101 - 200</b>	Phone No. <b>(501) 371-1090</b>
Street Address <b>1302 PIKE, NORTH LITTLE ROCK, AR 72114</b>		City, State and ZIP Code	
Name		No. Employees, Members	Phone No.
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest    Latest <b>03-03-2020    07-20-2020</b> <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			



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. I declare under penalty of perjury that the above is true and correct.  <b>Digitally signed by Demarrio Moss on 12-15-2020 12:22 PM EST</b>	NOTARY - When necessary for State and Local Agency Requirements  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)
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

EEOC Form 5 (11/03)

<p align="center"><b>CHARGE OF DISCRIMINATION</b></p> <p>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p>	<p>Charge Presented To: Agency(ies) Charge No(s):</p> <p><input type="checkbox"/> FEPA</p> <p><input checked="" type="checkbox"/> EEOC <b>493-2020-01902</b></p>
<p align="center">_____ and EEOC <i>State or local Agency, if any</i></p>	
<p><b>I was hired by the above-named employer on or about November 7, 2007. I have been employed as a Patrol Agent. On or about March 3, 2020, I interviewed for the position of Assistant Area Manager, along with several others. I was told that I had the highest score after my interview. However, the position remained vacant and was re-posted in early July 2020. After another round of interviews, it was announced that a White applicant was promoted into the position.</b></p> <p><b>I was not given a reason why the March 2020 interview scores were not considered, or why I was not selected for the job.</b></p> <p><b>I believe I was denied a promotion because of my race (Black) in violation of Title VII of the Civil Rights Act of 1964, as amended.</b></p>	

<p>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.</p>	<p>NOTARY - When necessary for State and Local Agency Requirements</p>
<p>I declare under penalty of perjury that the above is true and correct.</p>	<p>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.</p> <p>SIGNATURE OF COMPLAINANT</p>
<p align="center"><b>Digitally signed by Demarrio Moss on 12-15-2020 12:22 PM EST</b></p>	<p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</p>

EEOC Form 161 (11/2020)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Demarrio A. Moss**From: **Little Rock Area Office  
820 Louisiana  
Suite 200  
Little Rock, AR 72201**☐On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

**493-2020-01902****Tyrone Y. Blanks,  
Investigator****(501) 324-5083**

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: The EEOC will not proceed further with its investigation, and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

**William A. Cash, Jr.,  
Area Office Director**

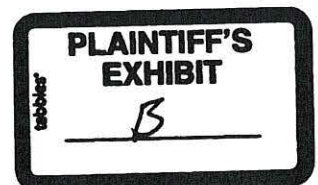
03/08/2021

(Date Issued)

Enclosures(s)

cc:

**Tammy Baker  
EEO/Grievance Officer  
ADC  
1302 Pike Ave  
North Little Rock, AR 72114**





JS 44 (Rev. 04/21)

## CIVIL COVER SHEET

4:21-cv-485-KGB

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

DEMARRIO MOSS

(b) County of Residence of First Listed Plaintiff Pulaski  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Austin Porter Jr., PORTER LAW FIRM, 323 Center  
Street, Suite 1035, Little Rock, Arkansas 72201,

## DEFENDANTS

ARKANSAS DEPARTMENT OF CORRECTION/  
DIVISION OF COMMUNITY CORRECTION

County of Residence of First Listed Defendant Pulaski  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |                                         | PTF                        | DEF                        |                                                               | PTF                        | DEF                        |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation                                                | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>INTELLECTUAL PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment Accommodations <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Recopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Title VII of the Civil Rights Act of 1964 (as amended)

Brief description of cause:  
Employment Discrimination

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

June 3, 2021

SIGNATURE OF ATTORNEY OF RECORD

Austin Porter Jr.

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



# INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

### SETTLEMENT AGREEMENT AND RELEASE

WHEREAS, an action is pending in the United States District Court for the Eastern District of Arkansas, styled *Demario Moss v. Arkansas Department of Corrections/Division of Community Correction*, Case No. 4:21-CV-00485 KGB (hereinafter referred to as the “Action”), and

WHEREAS, the defendant in the Action, Arkansas Department of Corrections/Division of Community Correction (hereinafter “defendant”) denies that it, or any officer, employee, or agent of the Arkansas Department of Corrections, have engaged in any wrongful, tortious or unlawful conduct of any kind, and

WHEREAS, the plaintiff in this action Demario Moss (hereinafter “plaintiff”) and the defendant desire to compromise and settle the Action to avoid the costs and uncertainties of continued litigation;

NOW, THEREFORE, the plaintiff and the defendant agree to the following terms as full and final satisfaction of any and all claims, including any and all claims for costs and attorneys’ fees, which were raised by plaintiff in the Action or could have been raised by plaintiff in the Action.

1. ACTION TO BE TAKEN BY DEFENDANT. Following entry of an Order dismissing the Action with prejudice, the defendant will pay a total of \$50,000 (Fifty Thousand Dollars and 00 cents) to plaintiff’s undersigned attorney from which no withholdings shall be made as a 1099 will be issued.

2. ACTION TO BE TAKEN BY PLAINTIFF. The plaintiff, following final approval as required by paragraph 12, will move to dismiss the Action with prejudice.

3. COMPLETE RELEASE AND WAIVER. The plaintiff waives, releases, relinquishes and forever discharges the defendant from all claims, liens, or causes of action, known

or unknown, arising out of his employment with defendant prior to the date of signing the agreement, for damages, attorneys' fees, costs or recovery of any type against the defendant including any officers, officials, employees and agents of any defendant, in their official and individual capacities. Plaintiff also waives, releases, relinquishes and forever discharges the defendant from all causes of action that were brought or could have been brought in this case.

4. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties. The plaintiff and defendant have not relied upon any promise or statement, oral or written, that is not set forth in this Agreement.

5. MODIFICATION. The plaintiff and defendant agree that this Agreement may not be modified, amended, or altered except by a written agreement executed by all parties.

6. VOLUNTARY AGREEMENT. The plaintiff and defendant acknowledge that each has read this Agreement, that each has had the opportunity to consult with legal counsel of their choosing concerning the advisability, meaning and effect of this Agreement, and that each has signed this Agreement voluntarily and without duress.

7. NO RESCISSION FOR MISTAKE. The plaintiff and defendant acknowledge that each has had the opportunity to investigate the facts and law relating to the claims raised in the Action and any additionally waived and released claims to the extent each deems necessary and appropriate. The plaintiff and defendant assume the risk of any mistake of fact or law and agree that any mistake of fact or law shall not be grounds for rescission or modification of any part of this Agreement.

8. ACKNOWLEDGEMENT. Plaintiff and defendant acknowledge that this document was agreed upon by both sides; the terms of which will not be construed against either side as the drafter.

9. NO ADMISSION OF LIABILITY. The plaintiff and defendant acknowledge that this Agreement is a compromise and is not an admission of liability or wrongdoing on the part of the defendant, or any officer, employee or official of any defendant or the Arkansas Department of Corrections. Plaintiff agrees that the Agreement is not admissible in any court or administrative body except as necessary to enforce its terms or as otherwise required by law.

10. CHOICE OF LAW. This Agreement shall be governed by and construed in accordance with the substantive law of the State of Arkansas.

11. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon the plaintiff and defendant and each of their respective heirs, descendants, successors and assigns.

12. EFFECTIVE DATE. This Agreement shall not become effective until any necessary approvals have been obtained including by the Director of the Department of Finance & Administration and review by such Legislative Committee as may be required.

13. EXECUTION. The persons executing this document assert that they are authorized to do so by the party or parties on whose behalf they purport to act.

14. COUNTERPARTS. This Agreement may be executed in counterparts and the counterparts taken together, will have binding effect.

PLAINTIFF

By: Demario Moss

Title: Parole Agent

Date: 7-5-2023

DEFENDANT

By: [Signature]

Title: SECRETARY

Date: 30 JUNE 23