MEDIATION,TEB

U.S. District Court
Southern District of Florida (Miami)
CIVIL DOCKET FOR CASE #: 1:10-cv-23996-MGC

Grimes v. Miami Dade County
Assigned to: Judge Marcia G. Cooke
Referred to: Magistrate Judge Ted E. Bandstra
Magistrate Judge Peter R. Palermo (Settlement)
Case in other court: 15th Judicial Circuit in Palm Beach County, Florid, 502010CA027142XXXXMBAE
Cause: 28:1983 Civil Rights

Date Filed: 11/04/2010
Jury Demand: None
Nature of Suit: 445 Civil Rights: Americans with Disabilities - Employment
Jurisdiction: Federal Question

Plaintiff

Annie L. Grimes represented by **Annie L. Grimes**
12200 NE 6th Avenue
#209
North Miami, FL 33161
PRO SE

V.

Defendant

Miami Dade County represented by **Eric Alberto Rodriguez**
William Candella, Assistant County Attorney
Dade County Attorney's Office
Metro Dade Center
111 NW 1st Street
Suite 2810
Miami, FL 33128-1993
305-375-1321
Fax: 375-5634
Email: ear2@miamidade.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/04/2010	1	COMPLAINT against Miami Dade County. Filing fee $ 350.00. IFP Filed, filed by Annie L. Grimes. (Attachments: # 1 Civil Cover Sheet)(rgs) (Entered: 11/04/2010)
11/04/2010	2	Judge Assignment RE: Electronic Complaint to Judge Adalberto Jordan (rgs) (Entered: 11/04/2010)
11/04/2010	3	MOTION for Leave to Proceed in forma pauperis by Annie L. Grimes. (rgs) (Entered: 11/04/2010)

11/15/2010	4	ORDER granting 3 Motion for Leave to Proceed in forma pauperis. Signed by Judge Adalberto Jordan on 11/15/10. (mg) (Entered: 11/15/2010)
11/29/2010	5	MOTION to Appoint Counsel by Annie L. Grimes. Responses due by 12/16/2010 (ls) (Entered: 11/29/2010)
11/29/2010	6	Summons Issued as to Miami Dade County. (ls) (Entered: 11/29/2010)
11/29/2010	7	NOTICE of Filing Documents by Annie L. Grimes (mg) (Entered: 11/29/2010)
12/01/2010	8	ORDER denying 5 Motion to Appoint Counsel. Signed by Judge Adalberto Jordan on 12/1/2010. (mc1) (Entered: 12/01/2010)
12/07/2010	9	SUMMONS (Affidavit) Returned Executed by Annie L. Grimes. Miami Dade County served on 12/6/2010, answer due 12/27/2010. (ls) (Entered: 12/08/2010)
12/27/2010	10	MOTION to Dismiss 1 Complaint by Miami Dade County. Responses due by 1/13/2011 (Rodriguez, Eric) (Entered: 12/27/2010)
01/06/2011	11	AMENDED COMPLAINT against Miami Dade County, filed by Annie L. Grimes.(mg) (Entered: 01/07/2011)
01/06/2011	12	Summons Issued as to Miami Dade County. (mg) (Entered: 01/07/2011)
01/10/2011	13	Response to Motion to Dismiss and MOTION to Amend/Correct 1 Complaint by Annie L. Grimes. Responses due by 1/27/2011 (mg) (Entered: 01/11/2011)
01/21/2011	14	REPLY to Response to Motion re 13 MOTION to Amend/Correct 1 Complaint filed by Miami Dade County. (Rodriguez, Eric) (Entered: 01/21/2011)
01/21/2011	15	RESPONSE in Support re 13 MOTION to Amend/Correct 1 Complaint filed by Miami Dade County. (Rodriguez, Eric) (Entered: 01/21/2011)
01/25/2011	16	ORDER denying as moot 10 Motion to Dismiss; granting 13 Motion to Amend/Correct; All defendants, except Miami-Dade County are dismissed from this case. Miami-Dade shall respond to the amended complaint by 2/10/11. Signed by Judge Adalberto Jordan on 1/25/11. (mg) (Entered: 01/25/2011)
01/25/2011		Set Answer Due Deadline Per Order 16 : Miami Dade County response due 2/10/2011. (mg) (Entered: 01/25/2011)
01/28/2011	17	SUMMONS (Affidavit) Returned Executed by Annie L. Grimes. Miami Dade County served on 1/25/2011, answer due 2/15/2011. (ls) (Entered: 01/28/2011)
02/10/2011	18	MOTION to Dismiss 11 Amended Complaint by Miami Dade County. Responses due by 2/28/2011 (Rodriguez, Eric) (Entered: 02/10/2011)
02/18/2011	19	RESPONSE to Motion re 18 MOTION to Dismiss 11 Amended Complaint filed by Annie L. Grimes. Replies due by 2/28/2011. (mg) (Entered: 02/18/2011)
02/18/2011	20	AMENDED COMPLAINT against Miami Dade County, filed by Annie L. Grimes.(mg) (Entered: 02/18/2011)

02/28/2011	21	REPLY to Response to Motion re 18 MOTION to Dismiss 11 Amended Complaint filed by Miami Dade County. (Rodriguez, Eric) (Entered: 02/28/2011)
03/02/2011	22	ORDER denying as moot 18 Motion to Dismiss 11 Amended Complaint; Second Amended Complaint due by 3/20/2011. Signed by Judge Adalberto Jordan on 3/2/2011. (ls) (Entered: 03/02/2011)
03/10/2011	23	Second AMENDED COMPLAINT against Miami Dade County, filed by Annie L. Grimes.(mg) (Entered: 03/10/2011)
03/10/2011	24	RESPONSE/REPLY to 23 Amended Complaint by Annie L. Grimes. (mg) (Entered: 03/10/2011)
03/22/2011	25	MOTION for Leave to File/Add Third Amended Complaint Letter Issued by EEOC on March 3, 2011 Rights to Suit by Annie L. Grimes. (ls) (Entered: 03/23/2011)
03/22/2011	26	THIRD AMENDED COMPLAINT against Miami Dade County, filed by Annie L. Grimes.(ls) (Entered: 03/23/2011)
04/01/2011	28	Case Reassignment of Paired Magistrate Judge pursuant to Administrative Orders 2010-145 and 2011-18 to Magistrate Judge John J. O'Sullivan. Magistrate Judge Chris M. McAliley no longer assigned to case. (dm) (Entered: 04/07/2011)
04/07/2011	27	RESPONSE in Support re 25 MOTION for Leave to File *Third Amended Complaint* filed by Miami Dade County. (Rodriguez, Eric) (Entered: 04/07/2011)
04/11/2011	29	ORDER granting 25 Motion for Leave to File. The Third Amended Complaint is now the operative complaint. Signed by Judge Adalberto Jordan on 4/11/11. (mg) (Entered: 04/11/2011)
04/25/2011	30	MOTION to Dismiss 26 Amended Complaint by Miami Dade County. Responses due by 5/12/2011 (Rodriguez, Eric) (Entered: 04/25/2011)
05/06/2011	31	RESPONSE to Motion re 30 MOTION to Dismiss 26 Amended Complaint filed by Annie L. Grimes. Replies due by 5/16/2011. (mg) (Entered: 05/06/2011)
05/16/2011	32	REPLY to Response to Motion re 30 MOTION to Dismiss 26 Amended Complaint filed by Miami Dade County. (Rodriguez, Eric) (Entered: 05/16/2011)
07/08/2011	33	Order Denying 30 Motion to Dismiss. Signed by Judge Adalberto Jordan on 7/8/2011. (jcy) (Entered: 07/08/2011)
07/22/2011	34	ANSWER and Affirmative Defenses to Amended Complaint by Miami Dade County.(Rodriguez, Eric) (Entered: 07/22/2011)
07/26/2011	35	Order Requiring Joint Scheduling Report -Joint Scheduling Report due by 8/8/2011. Signed by Judge Adalberto Jordan on 7/26/2011. (lk) (Entered: 07/26/2011)

08/03/2011	36	AMENDED ORDER re 35 Order Requiring Joint Scheduling Report, (-Joint Scheduling Report due by 8/25/2011). Signed by Judge Adalberto Jordan on 8/3/11. (mg) (Entered: 08/03/2011)
08/25/2011	37	SCHEDULING REPORT - **Rule 16.1** by Miami Dade County (Rodriguez, Eric) (Entered: 08/25/2011)
09/08/2011	38	ORDER Setting Schedule, Requiring Mediation, and Referring Certain Motions to Magistrate Judge: (Jury Trial set for 7/16/2012 before Judge Adalberto Jordan., Calendar Call set for 7/10/2012 09:00 AM before Judge Adalberto Jordan., Amended Pleadings due by 11/7/2011., Discovery due by 1/31/2012., Expert Discovery due by 1/31/2012., Joinder of Parties due by 11/7/2011., Pretrial Stipulation due by 4/30/2012.), ORDER REFERRING CASE to Mediation. (Mediation Deadline 2/29/2012.), ORDER REFERRING CASE to Magistrate Judge John O'Sullivan for Discovery. Signed by Judge Adalberto Jordan on 9/8/11. (mg) (Entered: 09/08/2011)
09/08/2011	39	Discovery Procedure for Magistrate Judge John J. O'Sullivan. Signed by Judge Adalberto Jordan on 9/8/11. (mg) (Entered: 09/08/2011)
09/20/2011	40	RESPONSE to Report of the Parties Conference Pursuant to Local Rule #16. (B) (2) re 37 SCHEDULING REPORT - Rule 26(f)/16.1 by Annie L. Grimes. (jua) (Entered: 09/20/2011)
09/20/2011	41	NOTICE of Non-Consent to Trial and Final Disposition by Magistrate Judge by Annie L. Grimes (ar2) (Entered: 09/20/2011)
09/20/2011	42	MOTION for the Defendant Miami-Dade County to Pay the Plaintiff's Costs and Fees by Annie L. Grimes. (ar2) (Entered: 09/21/2011)
09/28/2011	43	RESPONSE in Opposition re 42 MOTION for the Defendant Miami-Dade County to Pay the Plaintiff's Costs and Fees filed by Miami Dade County. (Rodriguez, Eric) (Entered: 09/28/2011)
10/04/2011	44	ORDER denying 42 Motion to force Miami-Dade County pay costs and fees. Signed by Judge Adalberto Jordan on 10/4/11. (mg) (Entered: 10/04/2011)
10/11/2011	45	NOTICE of Mediator Selection: Magistrate Judge Palermo selected. (Rodriguez, Eric) (Entered: 10/11/2011)
10/12/2011	46	ORDER APPOINTING MEDIATOR: Magistrate Judge Peter R. Palermo added. Signed by Judge Adalberto Jordan on 10/12/11. (mg) (Entered: 10/13/2011)
10/18/2011	47	ORDER Scheduling Settlement Conference set for 11/1/2011 09:30 AM in Miami Division before Sr. U.s. Magistrate Judge Peter R. Palermo. Signed by Sr. U.S. Magistrate Judge Peter R. Palermo on 10/17/2011. (ds) (Entered: 10/18/2011)
10/18/2011	48	ORDER Scheduling Settlement Conference set for 11/1/2011 09:30 AM in Miami Division before Sr. Magistrate Judge Peter R. Palermo. Signed by Sr. Magistrate Judge Peter R. Palermo on 10/17/2011. (ds) (Entered: 10/18/2011)
10/24/2011	49	MOTION for Extensions for Order Scheduling Settlement Conference re 48

		Order, Set/Reset Deadlines/Hearings, 47 Order, Set/Reset Deadlines/Hearings by Annie L. Grimes. Responses due by 11/10/2011 (yha) (Entered: 10/24/2011)
10/24/2011	50	RESPONSE to Motion re 49 MOTION for Extension of Time for Order Scheduling Settlement Conference re 48 Order, Set/Reset Deadlines/Hearings, 47 Order, Set/Reset Deadlines/Hearings filed by Miami Dade County. Replies due by 11/3/2011. (Rodriguez, Eric) (Entered: 10/24/2011)
10/25/2011	51	ORDER Granting re 49 MOTION for Extension of Time for Order Scheduling Settlement Conference. Settlement Conference reset for 11/16/2011 09:30 AM in Miami Division before Sr. Magistrate Judge Peter R. Palermo. Signed by Sr. Magistrate Judge Peter R. Palermo on 10/25/2011. (ds) (Entered: 10/25/2011)
11/01/2011	52	Case Reassignment of Paired Magistrate Judge pursuant to Administrative Order to Magistrate Judge Ted E. Bandstra. Magistrate Judge John J. O'Sullivan no longer assigned to case. (vp) (Entered: 11/02/2011)
11/04/2011	53	ORDER Resetting Settlement Conference, (Settlement Conference reset for 11/22/2011 09:30 AM in Miami Division before Magistrate Judge Peter R. Palermo.). Signed by Magistrate Judge Peter R. Palermo on 11/4/2011. (ls) (Entered: 11/04/2011)
11/22/2011	54	Minute Entry for proceedings held before Sr. Magistrate Judge Peter R. Palermo: Settlement Conference held on 11/22/2011. (ds) (Entered: 11/23/2011)
11/28/2011	55	MOTION for the Defendants Attorney on Plaintiffs Case to be Dismissed by Annie L. Grimes. Responses due by 12/15/2011 (jua) (Entered: 11/28/2011)
11/28/2011	56	NOTICE of Exchange Expert Witness Summaries and Reports Required by Local Rule 16.1K by Annie L. Grimes (jua) (Entered: 11/28/2011)
12/06/2011	57	RESPONSE in Opposition re 55 MOTION to Disqualify Counsel filed by Miami Dade County. (Rodriguez, Eric) (Entered: 12/06/2011)
12/08/2011	58	ORDER denying 55 Motion to Dismiss Attorney. Signed by Judge Adalberto Jordan on 12/8/2011. (ls) (Entered: 12/08/2011)
01/25/2012	59	RESPONSE to Notice of Deposition by Annie L. Grimes. (jua) (Entered: 01/25/2012)
03/15/2012	60	Case Reassigned to Judge Marcia G. Cooke pursuant to Administrative Order 2012-16. Judge Adalberto Jordan no longer assigned to the case. (vp) (Entered: 03/15/2012)
03/23/2012	61	ENDORSED ORDER Setting Status Conference: All parties shall appear for a status conference before Judge Marcia G. Cooke on 4/4/2012, at 11:00 AM. Signed by Judge Marcia G. Cooke on 3/23/2012. (scy) (Entered: 03/23/2012)
03/27/2012	62	ENDORSED ORDER Setting Status Conference: All parties shall appear for a status conference before Judge Marcia G. Cooke on 4/11/2012, at 4:00 PM. Signed by Judge Marcia G. Cooke on 3/27/2012. (scy) (Entered: 03/27/2012)
03/27/2012	63	Order Vacating 61 Endorsed Order Setting Status Conference. The status

		conference has been re-set to April 11, 2012, at 4:00 pm. Signed by Judge Marcia G. Cooke on 3/27/2012. (scy) (Entered: 03/27/2012)
03/29/2012	64	AFFIDAVIT signed by : Eliel Flores. *In Support of Defendant's Rule 7.5 Statement and in Support of Defendant's Motion for Summary Judgment* by Miami Dade County (Rodriguez, Eric) (Entered: 03/29/2012)
03/29/2012	65	AFFIDAVIT signed by : William X. Candela. *In Support of Defendant's Rule 7.5 Statement and In Support of Defendant's Motion for Summary Judgment* by Miami Dade County (Rodriguez, Eric) (Entered: 03/29/2012)
03/29/2012	66	AFFIDAVIT signed by : Bobbie Jones-Wilfork. *In Support of Defendant's Rule 7.5 Statement and In Support of Defendant's Motion for Summary Judgment* by Miami Dade County (Rodriguez, Eric) (Entered: 03/29/2012)
03/29/2012	67	AFFIDAVIT signed by : Melvin Payne. *In Support of Defendant's Rule 7.5 Statement and In Support of Defendant's Motion For Summary Judgment* by Miami Dade County (Rodriguez, Eric) (Entered: 03/29/2012)
03/29/2012	68	NOTICE by Miami Dade County *of Filing Defendant's Rule 7.5 Statement of Undisputed Facts In Support of Defendant's Motion for Summary Judgment* (Rodriguez, Eric) (Entered: 03/29/2012)
03/29/2012	69	Defendant's MOTION for Summary Judgment by Miami Dade County. Responses due by 4/16/2012 (Rodriguez, Eric) (Entered: 03/29/2012)
03/29/2012	71	Rule 7.5 Statement of: Undisputed Facts in support of Motion for Summary Judgment by Miami Dade County (ls)(See Image at DE # 68) (Entered: 03/30/2012)
03/30/2012	70	Clerks Notice to Filer re 68 Notice (Other), 69 Defendant's MOTION for Summary Judgment , 64 Affidavit, 66 Affidavit, 65 Affidavit, 67 Affidavit. **Document not filed in Text Searchable Format**; ERROR - The document was not filed in Text Searchable Format. All future filings must be submitted in Text Searchable format as instructed in the CM/ECF Administrative Procedure 3G(5) -Page 10-. It is not necessary to refile this document. (ls) (Entered: 03/30/2012)
03/30/2012	72	Clerks Notice to Filer re 68 Notice (Other). **Wrong Event Selected**; ERROR - The Filer selected the wrong event. The document was re-docketed by the Clerk, see [de#71]. It is not necessary to refile this document. (ls) (Entered: 03/30/2012)
04/09/2012	73	MOTION for Extension of Time to File Response as to 69 Defendant's MOTION for Summary Judgment by Annie L. Grimes. (cbr) (Entered: 04/09/2012)
04/10/2012	74	ENDORSED ORDER granting 73 Plaintiff's Motion for Extension of Time to File Response to 69 Defendant's MOTION for Summary Judgment. Plaintiff shall file her response on or before 4/20/2012. Defendant shall file its Reply on or before 4/30/2012. Signed by Judge Marcia G. Cooke on 4/10/2012. (scy) (Entered: 04/10/2012)
04/11/2012	77	Paperless Minute Entry for proceedings held before Judge Marcia G. Cooke:

		Status Conference held on 4/11/2012. All counsel and pro-se plaintiff present. Court Reporter: Diane Miller, 305-523-5152 / Diane_Miller@flsd.uscourts.gov (im) (Entered: 04/12/2012)
04/12/2012	75	*Endorsed Order granting Motion for Extension of Time. For the reasons provided in open court, Plaintiff's motion for extension of time to respond to 69 Defendant's MOTION for Summary Judgment, made orally to the Court on April 11, 2012, is granted. Plaintiff's Response is due by 4/23/2012, Defendant's Reply is due by 5/3/2012. Signed by Judge Marcia G. Cooke on 4/12/2012. (scy) (Entered: 04/12/2012)
04/12/2012	76	SUPPLEMENTAL SCHEDULING ORDER: Jury Trial re-set for 7/30/2012, at 09:30 AM in Miami Division before Judge Marcia G. Cooke. Calendar Call re-set for 7/25/2012, at 03:00 PM in Miami Division before Judge Marcia G. Cooke. In Limine Motions due by 6/20/2012. Pretrial Stipulation due by 6/20/2012. Signed by Judge Marcia G. Cooke on 4/12/2012. (scy) (Entered: 04/12/2012)
04/19/2012	78	MOTION for Extension of Time to File Response as to 69 Defendant's MOTION for Summary Judgment by Annie L. Grimes. (cbr) (Entered: 04/19/2012)
04/20/2012	79	ENDORSED ORDER granting in part and denying in part 78 Plaintiff's Motion for Extension of Time to File Response to 69 Defendant's MOTION for Summary Judgment . Plaintiff's Response is due by 4/30/2012. Defendant's Reply is due by 5/7/2012. Plaintiff's request for a status conference is denied. Signed by Judge Marcia G. Cooke on 4/20/2012. (scy) (Entered: 04/20/2012)
04/26/2012	80	RESPONSE AND AFFIDAVIT in Opposition with Supporting Memorandum of Law re 69 Defendant's MOTION for Summary Judgment filed by Annie L. Grimes. (ail) (Additional attachment(s) added on 4/27/2012: # 1 Memorandum) (ail). (Entered: 04/27/2012)
05/07/2012	81	REPLY to Response to Motion re 69 Defendant's MOTION for Summary Judgment filed by Miami Dade County. (Rodriguez, Eric) (Entered: 05/07/2012)
06/19/2012	82	Joint MOTION for Extension of Time to File Pretrial Stipulation by Miami Dade County. Responses due by 7/6/2012 (Attachments: # 1 Text of Proposed Order)(Rodriguez, Eric) Modified Text on 6/20/2012 (ls). (Entered: 06/19/2012)
06/19/2012	83	ENDORSED ORDER granting 82 Joint Motion for Extension of Time to File Pretrial Stipulation. The parties shall file the Pretrial Stipulation on or before June 22, 2012. Signed by Judge Marcia G. Cooke on 6/19/2012. (scy) (Entered: 06/19/2012)
06/22/2012	84	PRETRIAL STIPULATION *Joint* by Annie L. Grimes, Miami Dade County (Rodriguez, Eric) (Entered: 06/22/2012)

PACER Service Center

Transaction Receipt

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PACER Login:	vl0006	**Client Code:**	
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FILED by D.C.
MAR 22 2011
STEVEN M. LARIMORE
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 10-23996-CIV-JORDAN

ANNIE L. GRIMES,

Plaintiff,

vs.

MIAMI-DADE COUNTY
Defendants.

_____/

THIRD AMENDED COMPLAINT TO ADDED – NOTICE OF SUIT RIGHT- ISSUE ON MARCH 03, 2011 BY EEOC

The plaintiff, Annie L. Grimes in the above styled cause, sues defendant(s) Miami –Dade County

I filed an EEOC charge regarding this and received a right-to-sue letter dated March 03, 2011. Attached is a copy of the-right-to-sue letter regarding EEOC Charge No. 510-2010-05346 which I did not have at that time. I filed my original complaint in federal court on November 4, 2010, well within the 90 days allowed under the law.

To the opponent-at-law I attached a copy of both charges with the letter of right to suit to the complaint (new) letter#510-2010-05346 (old) #846-2009-02802, please see attachment, also copies was filed in the court as well.

Title VII of the Civil Rights Act of 1964, as amended for employment discrimination. Title VII forbids employers from retaliating or from taking adverse personnel action against, employees who exercise their lawful and protected rights under Title VII.

(Statement of facts)

1. I participated in an activity protected by Title VII when I filed a previous employment discrimination charge against Miami Dade County and resolved the issue by withdrawing my change and signing a settlement agreement.
2. In retaliation for participating in an activity protected by Title VII, I was demoted from my position/job duties and assigned to work as a clerk.
3. I filed an EEOC charge regarding this and received a right-to-sue letter dated August 11, 2010. Attached is a copy of the-right-to-sue letter regarding EEOC Charge No. 846-2009-02802. I filed my original complaint in federal court on November 4, 2010, well within the 90 days allowed under the law.
4. I have suffered and continue to suffer irreparable injury caused by the defendant's illegal conduct including, but not limited to, emotional distress, pain, suffering, humiliation, loss of enjoyment of life in the work-place, lost earnings and lost earning capacity.

(Relief request i.e. State what you want the Court to do or award)

Plaintiff requests that the Court enter an order.

a. *Prohibiting the defendant from engaging in acts of discrimination and retaliation.*
b. *Award the plaintiff all damages she is entitled to for employment benefits she would have received, but for the discriminatory and retaliatory acts and practices of defendant.*
c. *Award the plaintiff compensatory damages against the defendant in an amount that is fair, and*
d. *Order any other relief she is due that the Court deems proper and just.*

Signed this 22 day of March 2011

ANNIE L. GRIMES
Printed or typed name of filer

Signature of filer

Plaintiff:
Annie L. Grimes, pro se
12200 N.E. 6th Avenue, # 209
North Miami, FL 33161

Defendant:
Eric A. Rodriguez
Assistant County Attorney
Miami-Dade County Attorney's Office
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2810
Miami, FL 33

EEOC Form 161 (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Annie L. Grimes**
12200 N.E. 6th Avenue, #209
Miami, FL 33161

From: **Miami District Office**
2 South Biscayne Blvd
Suite 2700
Miami, FL 33131

☐ *On behalf of person(s) aggrieved whose identity is CONFIDENTIAL (29 CFR §1601.7(a))*

EEOC Charge No.	EEOC Representative	Telephone No.
510-2010-05346	**Dennis Kendrick, Investigator**	**(305) 808-1807**

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: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to 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

Delner Franklin-Thomas,
Acting District Director

MAR 03 2011
EEOC Miami District Office
(Date Mailed)

Enclosures(s)

cc: **Carlos Jose, Assistant Director**
MIAMI-DADE AVIATION DEPARTMENT
P.O. Box 022504
Miami, FL 33102

EEOC Form 5 (11/09)

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
- [X] EEOC 510-2010-05346

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)	Home Phone (Incl. Area Code)	Date of Birth
Ms. Annie L. Grimes	(305) 892-0051	07-22-1949

Street Address / City, State and ZIP Code: 12200 NE 6th Avenue, #209, Miami, FL 33161

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	No. Employees, Members	Phone No. (Include Area Code)
MIAMI DADE AVIATION DEPARTMENT	500 or More	(305) 876-8398

Street Address / City, State and ZIP Code: P.O. Box 025504, Miami, FL 33102

Name	No. Employees, Members	Phone No. (Include Area Code)

Street Address / City, State and ZIP Code:

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

- [ ] RACE
- [ ] COLOR
- [ ] SEX
- [ ] RELIGION
- [ ] NATIONAL ORIGIN
- [X] RETALIATION
- [ ] AGE
- [X] DISABILITY
- [ ] GENETIC INFORMATION
- [ ] OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest	Latest
04-14-2010	08-25-2010

- [X] CONTINUING ACTION

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

I am a person with a disability who filed previous Title VII and ADEA charges.

I am being retaliated against by being harassed by Bobbie Philips, management, with the threat of being sent for a "Fit for Duty" exam even though I am working under permanent medical restrictions granted by my employer at the advice of my treating physician.

I believe I am being discriminated against because of my disability in violation of the Americans With Disabilities Act of 1990, as amended, and retaliated against in violation of Title VII of the Civil Rights Act of 1964, as amended, and in violation of the Age Discrimination in Employment Act of 1967, as amended.

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.

09/04/2010 [signature]

Date / Charging Party Signature

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 161 (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Annie L. Grimes**
12200 NE 6th Avenue, #209
Miami, FL 33161

From: **Miami District Office**
2 South Biscayne Blvd
Suite 2700
Miami, FL 33131

☐ *On behalf of person(s) aggrieved whose identity is CONFIDENTIAL (29 CFR §1601.7(a))*

EEOC Charge No.	EEOC Representative	Telephone No.
846-2009-02802	**Dennis Kendrick, Investigator**	**(305) 808-1807**

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: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to 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

AUG 11 2010

Enclosures(s)

Delner Franklin-Thomas,
Acting District Director

EEOC Miami District Office
(Date Mailed)

cc: **William Candella, Assistant County Attorney**
MIAMI DADE COUNTY
111 N.W. First St., Suite 2810
Miami, FL 33128

EEOC Form 5 (5/01)

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:
- [ ] FEPA
- [X] EEOC

Agency(ies) Charge No(s):
846-2009-02802

State or Local Agency, if any

and EEOC

Name (indicate Mr., Ms., Mrs.)
Ms. Annie L. Grimes

Home Phone (Incl. Area Code)
(305) 892-0051

Street Address
12200 Ne 6th Avenue, #209, Miami, FL 33161

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
MIAMI DADE COUNTY AVIATION

No. Employees, Members
500 or More

Phone No. (Include Area Code)
(305) 876-7300

P.O. Box 592075, Miami, FL 33159

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)
- [ ] RACE
- [ ] COLOR
- [ ] SEX
- [ ] RELIGION
- [ ] NATIONAL ORIGIN
- [X] RETALIATION
- [ ] AGE
- [ ] DISABILITY
- [ ] OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE
Earliest: 04-15-2008
Latest: 10-24-2008

- [ ] CONTINUING ACTION

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

I a person who participated in an activity protected by Title VII when I filed a previous charge against Miami Dade County Aviation and resolved the issue by withdrawing my charge and signing a settlement agreement.

In retaliation, I was demoted from my work duties with the computer and assigned to work as a clerk.

I believe I am being retaliated against in violation of Title VII of the Civil Rights Act of 1964, as amended.

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.

Oct 24, 2008
Date

Charging Party Signature

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)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO. 10-23996-CIV-JORDAN

ANNIE L. GRIMES,	)
Plaintiff	)
vs.	)
MIAMI-DADE COUNTY,	)
Defendant	)

ORDER DENYING MOTION TO DISMISS

For the following reasons, Miami-Dade County's motion to dismiss [D.E. 30] is DENIED. Miami-Dade County shall respond to the third amended complaint by July 22, 2011.

When ruling on a motion to dismiss, I must look at the allegations in the complaint as well as any attached material. *See Wilchombe v. TeeVee Toons, Inc.*, 555 F.3d 949, 959 (11th Cir. 2009). And, when considering the complaint of a *pro se* litigant, I must liberally construe the pleadings. *See Moton v. Cowart*, 631 F.3d 1337, 1340 n.2 (11th Cir. 2009).

In her third amended complaint, Annie Grimes alleges that she participated in an activity protected by Title VII when she filed a discrimination charge against Miami-Dade County, that Miami-Dade County eventually settled that dispute, that she was demoted from her job to the status of "clerk" as a response for filing the discrimination charge, that she filed a new charge based on this demotion with the Equal Employment Opportunity Commission, that the EEOC gave her a right-to-sue letter, and that she filed a complaint in this case within the 90-day period provided by law. Ms. Grimes also attached two right-to-sue letters. It is unclear how the first right-to-sue letter relates to this case. The second one, however, concerns Miami-Dade County's alleged retaliation. This second right-to-sue letter contains the following allegation from Ms. Grimes: "I am a person who participated in an activity protected by Title VII when I filed a previous charge . . . . [I]n retaliation, I was demoted from my work duties with the computer and assigned to work as a clerk."

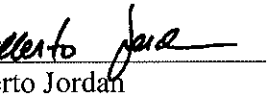
Miami-Dade County argues that Ms. Grimes fails to plead a claim under the standard given

by *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007). I disagree.

Construing the complaint liberally, as I must, *see Moton*, 631 F.3d at 1340 n.2, Ms. Grimes alleges that Miami-Dade County discriminated against her. In response, she filed a charge with the EEOC, and Miami-Dade County settled that case with Ms. Grimes. Then Miami-Dade County demoted Ms. Grimes, and the EEOC gave her a right-to-sue letter in August of 2010. This suffices at this stage. *Twombly* does not, as Miami-Dade County claims, require Ms. Grimes to give more factual detail. The factual allegations, along with the attachments to the complaint, must merely "possess enough heft" to set forth "a plausible entitlement to relief." *Fin. Sec. Assurance, Inc. v. Stephens, Inc.*, 500 F.3d 1276, 1282 (11th Cir. 2007) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 554–55 (2007)). Given the right-to-sue letter and Ms. Grimes's status as a *pro se* litigant, she has met this requirement.[1]

Finally, Miami-Dade County believes that the right-to-sue letter giving Ms. Grimes a right to bring this case has allegations inconsistent with the complaint's allegations. But Miami-Dade County is relying on the wrong right-to-sue letter. Ms. Grimes received the first right-to-sue letter attached to the complaint after she initiated this lawsuit. The second attached right-to-sue letter is about her demotion, and that right-to-sue letter is consistent with the allegations in the complaint. Miami-Dade County's argument is therefore unconvincing.

DONE and ORDERED in chambers in Miami, Florida, this 8th day of July, 2011.



Adalberto Jordan
United States District Judge

Copy to: All counsel of record
Annie L. Grimes, *pro se*
12200 NE 6th Avenue
#209
North Miami, FL 33161

[1]Miami-Dade County also complains about the lack of time frame, but the right-to-sue letters both contain dates on which the alleged discrimination took place.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-23996-CIV-JORDAN

ANNIE GRIMES,

Plaintiff,

vs.

MIAMI-DADE COUNTY,

Defendant.
_____/

ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT MIAMI-DADE COUNTY TO THIRD AMENDED COMPLAINT

Defendant Miami-Dade County ("the County") files this answer and affirmative defenses to the Third Amended Complaint and state as follows:

1. Defendant admits the allegation in paragraph 1 that Plaintiff has filed an EEOC Charge previously but any charge filed by Plaintiff constitutes protected activity because such charge was not filed in good faith. The remaining allegations of paragraph 1 are denied.

2. Defendant denies the allegation in paragraph 2 that Plaintiff was demoted and denies that any adverse employment action was taken against her for participating in activity protected by Title VII.

3. Defendant admits that Plaintiff filed EEOC Charge number 846-2009-02802 and that the EEOC issued a right-to-sue letter from the EEOC dated August 11, 2010 that indicates that the EEOC was unable to conclude that the information provided established a basis to find a Title VII violation.

4. Defendant denies the allegation of paragraph 4.

5. Defendant denies that Plaintiff is entitled to any relief and specifically denies that

Plaintiff is entitled to any of the relief set forth in subparagraphs a, b, c, and d.

6. Defendant denies that it has violated Title VII and denies that Plaintiff is entitled to any damages and any relief.

7. All allegations that are not expressly and specifically admitted, are denied.

AFFIRMATIVE DEFENSES

1. The Third Amended Complaint fails to state a claim for violation of Title VII of the Civil Rights Act as amended ("Title VII") as alleged in the Third Amended Complaint.

2. The claims under Title VII as alleged in the Third Amended Complaint are barred to the extent Plaintiff any alleged acts of discrimination occurred more than three hundred days prior to the filing of EEOC Charge 846-2009-02802. Thus, any conduct alleged more than 300 days prior to Plaintiff's filing of EEOC Charge 846-2009-02802 are time-barred.

3. The claims in the Amended Complaint are barred to the extent they are outside the scope of the Plaintiff's EEOC Charge 846-2009-02802.

4. The Plaintiff's claims are barred because Plaintiff was not demoted as alleged in the Third Amended Complaint nor was Plaintiff subjected to an adverse personnel action in retaliation for filing a prior EEOC Charge.

5. The claims in the Third Amended Complaint are barred to the extent that Plaintiff engaged in any conduct that would constitute misconduct, unclean hands or bad faith on Plaintiff's behalf.

6. To the extent the Amended Complaint purports to state a claim for retaliation under Title VII in Count II, such a claim fails because Plaintiff's alleged complaint of discrimination was not a good faith protected disclosure sufficient to protect Plaintiff under Title VII's anti-retaliation

provision, and even if it was a good faith protected disclosure, such disclosure was not the cause or related to any adverse employment action.

7. The Amended Complaint fails to state a claim for retaliation because Plaintiff has not suffered any adverse employment action or other violation of Title VII as a result of or related to such participation.

8. The County has an established policy against discrimination and retaliation and a complaint procedure.

9. The Plaintiff is barred in whole or in part from recovering any monetary relief against the County to the extent any damage suffered by Plaintiff was caused in whole or part by Plaintiff or another person, individual or entity or any combination thereof.

10. All of Plaintiff's claims are barred to the extent she failed to exhaust any administrative or contractual remedies that were available to her under County policies and under County collective bargaining agreements.

WHEREFORE, Defendant respectfully requests that the Third Amended Complaint be dismissed with prejudice and that the Defendant be awarded its costs and attorney's fees for defending this action.

Respectfully submitted,

R. A. CUEVAS, JR.
Miami-Dade County Attorney
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128

By: *s/ Eric A. Rodriguez*
Eric A. Rodriguez
Assistant County Attorney
Florida Bar No. 970875
Telephone: (305) 375-1321
Facsimile: (305) 375-5634
E-mail: ear2@miamidade.gov
Attorney for Defendant Miami-Dade County

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2011, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/ Eric A. Rodriguez
Eric A. Rodriguez

SERVICE LIST
CASE NO. 10-23996-CIV-JORDAN

Annie L. Grimes
12200 NE 6 Avenue
N. Miami, FL 33161
Plaintiff
Service by U.S. Mail

Eric A. Rodriguez
Assistant County Attorney
E-Mail: ear2@miamidade.gov
Miami-Dade County Attorney's Office
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128
Telephone: (305) 375-5151
Facsimile: (305) 375-5634
Attorney for Defendants
Filing Party/No Service

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-23996-CIV-COOKE

ANNIE L. GRIMES,

Plaintiff,

vs.

MIAMI-DADE COUNTY,

Defendant.
_____/

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND
SUPPORTING MEMORANDUM OF LAW

The Defendant, Miami-Dade County ("the County"), pursuant to Fed. R. Civ. P. 56 and Local Rule 7.5, files this memorandum in support of its motion for summary judgment.

This case involves a sole allegation of retaliation under Title VII in which Plaintiff alleges that she was demoted by the County's Aviation Department between April 15, 2008 and October 24, 2008 because she alleges her work duties were changed.

The Court in its Order Denying the Motion to Dismiss in this case summarized Plaintiff's allegation that the Court allowed to proceed as follows: "I am a person who participated in activity protected by Title VII when I filed a previous charge....[I]n retaliation, I was demoted from my work duties with the computer and assigned to work as a clerk." This was the allegation in the operative complaint, the Third Amended Complaint at paragraph 2. This allegation was based on Plaintiff's October 24, 2008 EEOC Charge that she filed against the County's Aviation Department which was assigned EEOC Charge Number 846-2009-02802. [hereafter "Plaintiff's 2008 Aviation Department EEOC Charge"] *See* Defendant's Rule 7.5

Statement of Undisputed Facts, Exhibit A[1] [hereafter "DSUF"]. The EEOC dismissed Plaintiff's 2008 Aviation Department EEOC Charge and determined that there no information establishing a violation of Title VII. *See* DSUF, Exhibit B.

Summary judgment is appropriate because: (1) Plaintiff cannot establish a prima facie claim of retaliation because any adjust one of her job duties in 2008 was not an adverse employment action, and (2) because there is no evidence that the decision to adjust one of Plaintiff's job duties was made by Aviation Department decisionmaker Melvin Payne in 2008 because Plaintiff had filed and settled an EEOC Charge against the Housing Agency in 2003. There is no evidence of causation. Melvin Payne did not know Plaintiff had filed an EEOC Charge with another department, the Housing Agency, 5 years before in 2003. Melvin Payne did never worked in the Housing Agency and did not work with the Plaintiff. Finally, Plaintiff has no evidence that adjusting one of her duties in 2008 was a pretext by the Aviation Department to retaliate against her for filing and settling an EEOC Charge in 2003-2004 against a different department, the Housing Agency. Accordingly, summary judgment should be granted.

SUMMARY OF THE FACTS

Defendant Miami-Dade County

1. The County has established policies specifically prohibiting discrimination in employment and prohibiting retaliation for protected conduct. *See Affidavit of Bobbie Jones-Wilfork, ¶6 and Exhibits A and B thereto. [hereafter Jones-Wilfork Aff.].*[2]

2. The County's Aviation Department ("Aviation" or "the Department") operates Miami International Airport and other aviation facilities in Miami-Dade County. [*Aff. Jones-*

[1] Defendant's Rule 7.5 Statement of Undisputed Facts in Support of Defendant's Motion for Summary Judgment appears in the record at Docket Entry 68 [DE 68].
[2] The Affidavit of Bobbie Jones-Wilfork appears in the record at Docket Entry 66 [DE 66].

Wilfork ¶4].

3. The County's anti-discrimination policy Administrative Order 7-37 requires employees to report discrimination to the County's Office of Fair Employment Practices ("FEP Office") which is a department of the County separate from the Aviation Department. [*Aff. Jones-Wilfork, Exhibit B*].

4. The County's Housing Department is a separate department from the Aviation Department.

The Plaintiff's Employment with Housing Agency in 2001 and 2003 EEOC Charge Against Housing Agency

5. Plaintiff Annie L. Grimes ("Grimes") was hired by the Miami-Dade Housing Agency ("Housing Agency") effective May 21, 2001 in the classification of Office Support Specialist 2. [*Affidavit of Eliel Flores ¶5 & Exhibit 1*][hereafter "*Flores Aff.*"].[3]

6. In 2003, Grimes filed EEOC Charge Number 150-2003-03910 against the Housing Agency ("the 2003 Housing Agency EEOC Charge"). In 2004, a settlement agreement was entered into between the Housing Agency and Grimes that concluded all proceedings related to the 2003 Housing Agency EEOC Charge. The 2004 settlement agreement of the 2003 Housing Agency EEOC Charge required that negative references be removed from Grimes' personnel record. [*Affidavit of William X. Candela ¶¶ 2 & 3 & Exhibit A*][hereafter "*Candela Aff.*"].[4]

7. County personnel records for Annie Grimes contain a Personnel Change Document (PCD) indicating that the code for the termination of Annie Grimes was changed in 2004 from Incompetency (DA) to Voluntary Resignation (BA) effective May 3, 2002. [*Flores Aff. ¶6 & Exhibit 2*].

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[3] The Affidavit of Eliel Flores appears in the record at Docket Entry 64 [DE 64].
[4] The Affidavit of William X. Candela appears in the record at Docket Entry 65 [DE 65].

Plaintiff is Hired in December 2004 By The Aviation Department And Is Assigned to the Facilities Management Division Which is Directed By Melvin Payne

8. In 2004, Grimes applied and interviewed for a position with the County's Aviation Department. By letter dated December 3, 2004, Grimes was offered the position with the classification of Airport Office Support Specialist 2. Grimes signed and dated the offer letter on 12/06/2004. The offer letter explained that Grimes would commence employment under the general direction of Melvin Payne. Bobbie Jones-Wilfork is the Aviation Department's Assistant Director for Administration with responsibility for human resource functions for at least the last 15 years. [*Jones-Wilfork Aff.*¶¶*5 & 7 & Exhibit C*].

9. Effective December 13, 2004, Grimes commenced employment with the County's Aviation Department in the classification of Airport Office Support Specialist 2 with the occupational code 5306. As a new hire, Grimes was hired in probational status which is reflected in the Personnel Change Document ("PCD") dated 12-13-04 with the letters "AB" to denote probational status. [*Jones-Wilfork Aff.*¶*8 & Exhibit D*].

The Aviation Department Passes Plaintiff's Probation, Grants Her Permanent Status in the Classified Service and Repeatedly Grants Plaintiff Pay Increases

10. Effective January 2, 2006, the Aviation Department granted Grimes permanent status in the County's classified service in the classification of Airport Office Support Specialist 2 and it issued Grimes a satisfactory annual evaluation. . [*Jones-Wilfork Aff.*¶*9 & Exhibit E*].

11. Effective July 3, 2006, Grimes' salary was increased by 3% to a bi-weekly rate of $986.16. [*Jones-Wilfork Aff.*¶*10 & Exhibit F*].

12. Effective January 1, 2007, the Aviation Department granted Grimes a merit increase in pay from $986.16 bi-weekly to $1026.06 bi-weekly. [*Jones-Wilfork Aff.*¶*11 & Exhibit G*].

13. Effective July 2, 2007, Grimes' salary was increased by 3% to $1055.34 bi-weekly. [*Jones-Wilfork Aff.*¶*12 & Exhibit H*].

14. For the period covering January 1, 2007 through December 30, 2007, the

Aviation Department issued Grimes an annual performance evaluation and granted her a merit increase in pay. A copy is attached as Exhibit I to the Jones-Wilfork Affidavit which also reflects on the first page that Grimes had been maintained as part of the classified service in the classification of Airport Office Support Specialist 2. [*Jones-Wilfork Aff.* ¶*13 & Exhibit I*].

15. The merit increase in pay that the Aviation Department granted to Grimes as a result of the annual evaluation in Exhibit I was from a bi-weekly rate of $1055.34 to $1093.19 effective December 31, 2007, which is reflected in the PCD attached as Exhibit J to the Jones-Wilfork Affidavit. This PCD reflects that as of December 31, 2007 Grimes remained in the classification of Airport Office Support Specialist 2 which is summarized in the PCD as "AROFSUPSP2" with occupational code 5306. [*Jones-Wilfork Aff.* ¶*14 & Exhibit J*].

Complaints Come In Regarding Plaintiff's ERP Requisition Work Causing Melvin Payne to Relieve Her in 2008 of That Part of Her Duties But Plaintiff Remains In The Same Classification And Gets Two Increases In Pay

16. During Grimes' employment with the Aviation Department starting in December 2004, Melvin Payne was the Division Director for the Aviation Department's Facilities Management Division where Grimes worked as an Airport Office Support Specialist 2. [*Declaration of Melvin Payne* ¶¶4-5][hereafter "*Payne Aff.*"].[5]

17. As an Airport Office Support Specialist 2 working in the Division that Melvin Payne managed, Annie Grimes had various clerical duties including closing out work orders for maintenance work. One of Annie Grimes' multiple job tasks as an Office Support Specialist 2 was to track the procurement of parts and to monitor and enter requisitions on the Enterprise Resource Planning (ERP) system. [*Payne Aff.* ¶7].

[5] The Declaration of Melvin Payne appears in the record at Docket Entry 67 [DE 67].

18. In and around the first few months of 2008, Division Director Melvin Payne made the decision to remove this ERP requisition assignment from Annie Grimes' responsibilities because he had received numerous complaints from Aviation Department employees that Annie Grimes was improperly creating requisitions, which created a backlog in procuring parts and hindered the operations of the Utilities section. [*Payne Aff.* ¶*8*].

19. Melvin Payne's decision in the first few months of 2008 to relieve Annie Grimes from working on requisitions in the ERP system did not in any way reduce Grimes' pay, salary or benefits. Melvin Payne's decision did not change Annie Grimes' work location. There was no significant negative effect on Annie Grimes' classification, status or position as a result of Melvin Payne's decision. Melvin Payne confirmed that his decision to relieve Grimes from working on the requisitions in 2008 was not a demotion. . [*Payne Aff.* ¶¶*6 & 9*].

20. Annie Grimes was not demoted at any time during her employment with the Aviation Department. During 2007, 2008, and 2009, Annie Grimes was in the same classification of Airport Office Support Services 2. During that time the Aviation Department did not reduce her pay. [*Payne Aff.* ¶*6*].

21. Effective June 30, 2008, Grimes received a 4% increase in pay to a bi-weekly rate of $1134.92. A true and correct copy of the County personnel record in support is attached as Exhibit K to the Jones-Wilfork Affidavit. This PCD reflects that as of June 30, 2008 Grimes remained in the classification of Airport Office Support Specialist 2 which is summarized in the PCD as "AROFSUPSP2" with occupational code 5306. [*Jones-Wilfork Aff.* ¶*15 & Exhibit K*].

22. For the period covering December 31, 2007 through December 28, 2008, the Aviation Department issued Grimes an annual performance evaluation and granted her a merit increase in pay. A true and correct copy of the County personnel record in support is attached as

Exhibit L to the Jones-Wilfork Affidavit. Exhibit L also reflects on the first page that Grimes had been maintained as part of the classified service in the classification of Airport Office Support Specialist 2. [*Jones-Wilfork Aff.¶16 & Exhibit L*].

23. The merit increase in pay that the Aviation Department granted to Grimes as a result of the annual evaluation in Exhibit L to the Jones-Wilfork Affidavit was from a bi-weekly rate of $1134.92 to $1174.33 effective December 29, 2008, which is reflected in the PCD, a true and correct copy of which is attached as *Exhibit M* to the Jones-Wilfork Affidavit. This PCD reflects that as of December 28, 2008 Grimes remained in the classification of Airport Office Support Specialist 2 which is summarized in the PCD as "AROFSUPSP2" with occupational code 5306. [*Jones-Wilfork Aff.¶17 & Exhibit M*]. At all times in 2007, 2008 and 2009, Grimes was always in the same classification of Aviation Office Support Specialist 2 with the same occupational code of 5306. [*Jones-Wilfork Aff.¶20*].

24. There was no reduction in Grimes' salary, pay or benefits during 2008. There was no reduction in Grimes' salary, pay or benefits as a result of any filing of any EEOC Charge by Grimes. . [*Jones-Wilfork Aff.¶21*].

25. As the Assistant Director for the Aviation Department over the human resources function for over the last 15 years, Bobbie Jones-Wilfork can certify that Grimes was not demoted in 2008. Any action to demote Grimes at that time would have required a Disciplinary Action Report or other official action which would have required Jones-Wilfork's review. This did not occur. Grimes was not demoted at any time from the time she was hired by the Aviation Department in December 2004 through 2009. [*Jones-Wilfork Aff.¶19*].

October 24, 2008 Plaintiff Files EEOC Charge Against Aviation Department

26. On October 24, 2008 Plaintiff Grimes signs EEOC Charge Number 846-2009-002802. [Attached As Exhibit A][hereafter "the Grimes 2008 Aviation Department EEOC Charge"].

27. The Grimes 2008 Aviation Department EEOC Charge alleges that Grimes filed a previous charge of discrimination that was withdrawn and that she signed a settlement agreement. Grimes then alleges that in retaliation for this prior EEOC Charge that was settled by a settlement agreement, she was retaliated against by being demoted from work duties with the computer. [Exhibit A].

28. The EEOC issued a Dismissal Notice on August 11, 2010 with the following determination regarding the Grimes 2008 Aviation Department EEOC Charge: "the EEOC is unable to conclude that the information obtained establishes violations of the statutes." [Exhibit B].

Aviation Department Management Did Not Know That Grimes Had Filed And Settled An EEOC Charge Against the Housing Agency Before Grimes Came to Work At Aviation

29. Prior to November 2008, Aviation Department Assistant Director Bobbie Jones-Wilfork did not know that Annie Grimes had filed any EEOC Charge with the Housing Agency, the Aviation Department or any other County department. [*Jones-Wilfork Aff.* ¶*18*].

30. At the time Melvin Payne made the decision in 2008 to remove the ERP requisition assignment from the tasks that Annie Grimes was performing, he was not aware that Annie Grimes had filed an EEOC charge. [*Payne Aff.* ¶*10*].

Aviation Department Gives Plaintiff A Raise After She Files 2008 EEOC Charge Against Aviation Department

31. Effective December 28, 2009, the Aviation Department granted Grimes a merit increase in pay from a bi-weekly rate of $1174.33 to $1220.26 which is reflected in the attached PCD. A true and correct copy of the County personnel record in support is attached as *Exhibit N* to the Jones-Wilfork Affidavit. This PCD reflects that as of December 28, 2009 Grimes remained in the classification of Airport Office Support Specialist 2 which is summarized in the PCD as "AROFSUPSP2" with occupational code 5306. [*Jones-Wilfork Aff.* ¶*22*].

32. Melvin Payne has not been an employee of the County's Housing Agency nor did he work with Annie Grimes in the County's Housing Agency. [*Payne Aff.* ¶*11*].

I. INTRODUCTION TO LEGAL ISSUES

The operative complaint, the Third Amended Complaint raises one retaliation claim pursuant to the Plaintiff's 2008 Aviation Department EEOC Charge filed on October 24, 2008. Third Amended Complaint ¶2. The Court's Order Denying the Motion to Dismiss confirms that this case involves one claim for retaliation in which Plaintiff alleges that she was "demoted" because her job duties changed between April 15, 2008 and October 24, 2008 (dates in EEOC Charge) and that the reason for this action was because she had filed and settled a prior EEOC Chrarge.

A complaint frames a judicial action. Thus, this action is limited to those claims made in the operative Third Amended Complaint. *See Manniccia v. Brown*, 171 F.3d 1364, 1366 n.1 (11th Cir. 1999)(liberal pleading does not require to fill in a complaint or require a court to "fabricate" a claim that the "plaintiff has not spelled out in his pleadings."). A judicial complaint under Title VII is in turn limited by the scope of the EEOC Charge on which it is based. *Ray v. Freeman*, 626 F.2d 439, 443 (5th Cir. 1980). Thus, a judicial proceeding is limited by the nature of the charges filed with the EEOC.

II. PLAINTIFF CANNOT ESTABLISH A CLAIM OF RETALIATION

To establish a prima facie claim of retaliation the plaintiff must show: (1) that she engaged in statutorily protected activity; (2) she suffered an adverse employment action; and (3) there was a causal connection between the protected activity and the adverse action. *See Gupta v. Florida Bd. Of Regents,* 212 F.3d 571 (11th Cir. 2000); *Thomas v. Miami Dade Public Health Trust,* 2010 WL 759607, 3 (11th Cir. 2010).

A. Plaintiff Cannot Establish Two Of The Elements Needed to Establish A Prima Facie Claim of Retaliation – Failure of Either Element is Fatal To Her Claim

The first element is established because Plaintiff did file an EEOC Charge against the Housing Agency in 2003. Plaintiff settled this 2003 EEOC Charge with the Housing Agency in August 2004.

Plaintiff, however, fails to establish the second and third elements of a prima facie claim of retaliation based on the 2008 adjustment of her job duties. Failure of either element is fatal to Plaintiff's claim.

1. The Adjustment In Duties Is Not An Adverse Employment Action

As a threshold matter, Plaintiff cannot establish a prima facie claim of retaliation because the adjustment of her job duties commencing in April 2008 such that she would no longer be responsible for performing requisitions on the ERP system was not an adverse employment action. It was merely a minor adjustment to her duties. Plaintiff was not demoted. Plaintiff's classification as an Airport Office Support Specialist 2 did not change before, during or after the adjustment of her duties in April 2008. Plaintiff's pay was never reduced as a result of this adjustment of her job duties in 2008. In fact, Plaintiff received two increases in pay during 2008 and a third increase in pay in 2009. Plaintiff's work location did not change. Under the case law, the minor adjustment of Plaintiff's duties in April 2008 is not an adverse employment action. *See Davis v. Town of Lake Park, Fla.* 245 F.3d 1232 (11th Cir. 2001); *Joseph v. Florida Quality Truss Industries, Inc.*, 2006 WL 3519095 *13 (S.D. Fla. 2006)(Cooke, J.)(citing *Davis v. Town of Lake Park* and noting that "changes to the employee's work assignments did not constitute adverse employment actions").

2. There Is No Evidence That Melvin Payne's 2008 Decision To Relieve Plaintiff From Performing Requisition Work on The ERP System Was Because Plaintiff Had Filed And Settled a 2003 EEOC Charge with the Housing Agency.

Even if Plaintiff could demonstrate a prima facie claim of adverse employment action (which she cannot), her retaliation claim fails for lack of evidence of causation. To establish the causation element, Plaintiff must establish that the decisionmaker for the adverse employment action had actual knowledge of Plaintiff's protected activity. *Silvera v. Orange County Sch. Bd.*, 244 F.3d 1253, 1262 (11th Cir. 2001); *Brungart v. BellSouth Telecomms, Inc.*, 231 F.3d 791, 799 (11th Cir. 2000) ("A decisionmaker cannot have been motivated to retaliate by something unknown to him"); *see also Verna v. Public Health Trust*, 539 F.Supp. 2d 1340, 1356 (S.D. Fla. 2008)(plaintiff required to establish at a minimum "that the decision-maker responsible for the adverse action was actually aware of the protected activity at the time he took the adverse action."). Plaintiff's retaliation claim fails here as well.

There is no evidence that Division Director Melvin Payne's 2008 decision to relieve plaintiff from performing requisition work on the ERP system was because plaintiff had filed and settled a 2003 EEOC Charge with the Housing Agency. Payne had not worked with Plaintiff in the Housing Agency. Payne never worked in the Housing Agency. Payne did not know that Plaintiff had filed an EEOC Charge with the Housing Agency or otherwise when he made the decision in 2008 to relieve Plaintiff from performing requisition work on the ERP system. Since the decisionmaker Melvin Payne did not know that Plaintiff had filed a previous EEOC Charge, causation cannot be established.

There is a second reason that there is no causation. Plaintiff's October 2008 EEOC Charge identifies the protected activity as a previous EEOC Charge that she filed and settled.

Plaintiff only settled an EEOC Charge with the Housing Agency, not the Aviation Department. And the latest EEOC Charge that Plaintiff filed with the Housing Agency was in 2003 which she settled in 2004. Any inference that Plaintiff's 2003 EEOC Charge with the Housing Agency was used by the Aviation Department as a reason to retaliate against Plaintiff is flatly refuted by the undisputed fact that the Aviation Department hired the Plaintiff in December 2004, just one year after the 2003 Housing Agency EEOC Charge. Additionally, thereafter the Aviation Department approved Plaintiff for permanent status and gave her numerous increases in pay. Accordingly, any inference that the Aviation Department was retaliating against Plaintiff for the 2003 EEOC Charge is refuted by the positive job actions the Aviation Department took towards Plaintiff in the time periods closer in time to the 2003 Housing Agency EEOC Charge.

And as for the 2008 adjustment in job duties regarding the requisitions in the ERP system, the temporal gap of 5 years between the 2003 Housing Agency EEOC Charge and the 2008 adjustment in duties flatly refutes causation. *See Wascura v. City of South Miami*, 257 F.3d 1238, 1244-45 (11th Cir. 2001)(stating that a three and one half month gap between the protected activity and the alleged adverse action, standing alone, is insufficient to establish causation element of prima facie claim of retaliation). Accordingly, Plaintiff also fails to establish a prima facie claim of retaliation on the basis of causation.

B. Plaintiff Cannot Demonstrate That The County's Articulated Reasons For The Adjustment in Duties Was A Mere Pretext For Retaliation.

The Aviation Department has proferred a legitmate non-retaliatory reason for the adjustment in duties in 2008. Division Director Melvin Payne made the decision to remove the ERP requisition assignment from Annie Grimes' responsibilities because he had received numerous complaints from Aviation Department employees that Annie Grimes was improperly

creating requisitions, which created a backlog in procuring parts and hindered the operations of the Utilities section. [*Payne Aff.* ¶8]. Plaintiff cannot demonstrate that this reason was a pretext and that the real reason was to retaliate against her for a prior EEOC Charge. Plaintiff's personal belief that she did nothing wrong is irrelevant. *Standard v. A.B.E.L. Serv., Inc.*, 161 F.3d 1318, 1333 (11th Cir. 1998) ("The heart of the pretext inquiry is not whether the employee agrees with the reasons that the employer gives for the discharge, but whether the employer really was motivated by those reasons."); *Coutu v. Martin County,* 47 F.3d 1068, 1074 (11th Cir. 1995) (Proof that plaintiff "deserved a better rating than [her supervisor] had given her," was insufficient to avoid summary judgment.). Accordingly, Plaintiff has adduced no admissible evidence that the 2008 adjustment of her duties was a pretext for retaliating against her for filing a prior EEOC Charge. Accordingly, even if Plaintiff had overcome her inability to establish a prima facie claim of retaliation, the retaliation claims still fails as a matter of law because she cannot establish pretext.

CONCLUSION

For all the foregoing reasons, Defendant respectfully requests that summary judgment for Defendant be granted and that judgment be entered for Defendant and against Plaintiff on the Third Amended Complaint.

OFFICE OF COUNTY ATTORNEY, MIAMI-DADE COUNTY, FLORIDA
TELEPHONE (305) 375-5151

Respectfully submitted,

R. A. CUEVAS, JR.
Miami-Dade County Attorney
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128

By: *s/ Eric A. Rodriguez*
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E-mail: ear2@miamidade.gov
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on March 29, 2012, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/ Eric A. Rodriguez
Eric A. Rodriguez

SERVICE LIST

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Attorney for Defendant
No Service Made

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-23996-CIV-COOKE

ANNIE L. GRIMES,

Plaintiff,

vs.

MIAMI-DADE COUNTY,

Defendant.
_____/

DEFENDANT'S RULE 7.5 STATEMENT OF UNDISPUTED FACTS
IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Defendant, Miami-Dade County ("the County"), pursuant to Local Rule 7.5(c), files this Statement of Undisputed Facts in support of its Motion for Summary Judgment.

Defendant Miami-Dade County

1. The County has established policies specifically prohibiting discrimination in employment and prohibiting retaliation for protected conduct. *See Affidavit of Bobbie Jones-Wilfork, ¶6 and Exhibits A and B thereto. [hereafter Jones-Wilfork Aff.].*[1]

2. The County's Aviation Department ("Aviation" or "the Department") operates Miami International Airport and other aviation facilities in Miami-Dade County. [*Aff. Jones-Wilfork ¶4*].

3. The County's anti-discrimination policy Administrative Order 7-37 requires employees to report discrimination to the County's Office of Fair Employment Practices ("FEP Office") which is a department of the County separate from the Aviation Department. [*Aff. Jones-Wilfork, Exhibit B*].

4. The County's Housing Department is a separate department from the Aviation Department.

[1] The Affidavit of Bobbie Jones-Wilfork appears in the record at Docket Entry 66 [DE 66].

The Plaintiff's Employment with Housing Agency in 2001
and 2003 EEOC Charge Against Housing Agency

5. Plaintiff Annie L. Grimes ("Grimes") was hired by the Miami-Dade Housing Agency ("Housing Agency") effective May 21, 2001 in the classification of Office Support Specialist 2. [*Affidavit of Eliel Flores ¶5 & Exhibit 1*][hereafter "*Flores Aff.*"].[2]

6. In 2003, Grimes filed EEOC Charge Number 150-2003-03910 against the Housing Agency ("the 2003 Housing Agency EEOC Charge"). In 2004, a settlement agreement was entered into between the Housing Agency and Grimes that concluded all proceedings related to the 2003 Housing Agency EEOC Charge. The 2004 settlement agreement of the 2003 Housing Agency EEOC Charge required that negative references be removed from Grimes' personnel record. [*Affidavit of William X. Candela ¶¶ 2 & 3 & Exhibit A*][hereafter "*Candela Aff.*"].[3]

7. County personnel records for Annie Grimes contain a Personnel Change Document (PCD) indicating that the code for the termination of Annie Grimes was changed in 2004 from Incompetency (DA) to Voluntary Resignation (BA) effective May 3, 2002. [*Flores Aff. ¶6 & Exhibit 2*].

Plaintiff is Hired in December 2004 By The Aviation Department
And Is Assigned to the Facilities Management Division
Which is Directed By Melvin Payne

[2] The Affidavit of Eliel Flores appears in the record at Docket Entry 64 [DE 64].
[3] The Affidavit of William X. Candela appears in the record at Docket Entry 65 [DE 65].

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8. In 2004, Grimes applied and interviewed for a position with the County's Aviation Department. By letter dated December 3, 2004, Grimes was offered the position with the classification of Airport Office Support Specialist 2. Grimes signed and dated the offer letter on 12/06/2004. The offer letter explained that Grimes would commence employment under the general direction of Melvin Payne. Bobbie Jones-Wilfork is the Aviation Department's Assistant Director for Administration with responsibility for human resource functions for at least the last 15 years. [*Jones-Wilfork Aff.*¶¶*5 & 7 & Exhibit C*].

9. Effective December 13, 2004, Grimes commenced employment with the County's Aviation Department in the classification of Airport Office Support Specialist 2 with the occupational code 5306. As a new hire, Grimes was hired in probational status which is reflected in the Personnel Change Document ("PCD") dated 12-13-04 with the letters "AB" to denote probational status. [*Jones-Wilfork Aff.*¶*8 & Exhibit D*].

The Aviation Department Passes Plaintiff's Probation, Grants Her Permanent Status in the Classified Service and Repeatedly Grants Plaintiff Pay Increases

10. Effective January 2, 2006, the Aviation Department granted Grimes permanent status in the County's classified service in the classification of Airport Office Support Specialist 2 and it issued Grimes a satisfactory annual evaluation. . [*Jones-Wilfork Aff.*¶*9 & Exhibit E*].

11. Effective July 3, 2006, Grimes' salary was increased by 3% to a bi-weekly rate of $986.16. [*Jones-Wilfork Aff.*¶*10 & Exhibit F*].

12. Effective January 1, 2007, the Aviation Department granted Grimes a merit increase in pay from $986.16 bi-weekly to $1026.06 bi-weekly. [*Jones-Wilfork Aff.*¶*11 & Exhibit G*].

13. Effective July 2, 2007, Grimes' salary was increased by 3% to $1055.34 bi-weekly. [*Jones-Wilfork Aff.*¶*12 & Exhibit H*].

14. For the period covering January 1, 2007 through December 30, 2007, the

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Aviation Department issued Grimes an annual performance evaluation and granted her a merit increase in pay. A copy is attached as Exhibit I to the Jones-Wilfork Affidavit which also reflects on the first page that Grimes had been maintained as part of the classified service in the classification of Airport Office Support Specialist 2. [*Jones-Wilfork Aff.*¶*13 & Exhibit I*].

15. The merit increase in pay that the Aviation Department granted to Grimes as a result of the annual evaluation in Exhibit I was from a bi-weekly rate of $1055.34 to $1093.19 effective December 31, 2007, which is reflected in the PCD attached as Exhibit J to the Jones-Wilfork Affidavit. This PCD reflects that as of December 31, 2007 Grimes remained in the classification of Airport Office Support Specialist 2 which is summarized in the PCD as "AROFSUPSP2" with occupational code 5306. [*Jones-Wilfork Aff.*¶*14 & Exhibit J*].

Complaints Come In Regarding Plaintiff's ERP Requisition Work Causing Melvin Payne to Relieve Her in 2008 of That Part of Her Duties But Plaintiff Remains In The Same Classification And Gets Two Increases In Pay

16. During Grimes' employment with the Aviation Department starting in December 2004, Melvin Payne was the Division Director for the Aviation Department's Facilities Management Division where Grimes worked as an Airport Office Support Specialist 2. [*Declaration of Melvin Payne* ¶¶4-5][hereafter "*Payne Aff.*"].[4]

17. As an Airport Office Support Specialist 2 working in the Division that Melvin Payne managed, Annie Grimes had various clerical duties including closing out work orders for maintenance work. One of Annie Grimes' multiple job tasks as an Office Support Specialist 2 was to track the procurement of parts and to monitor and enter requisitions on the Enterprise Resource Planning (ERP) system. [*Payne Aff.* ¶7].

[4] The Declaration of Melvin Payne appears in the record at Docket Entry 67 [DE 67].

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18. In and around the first few months of 2008, Division Director Melvin Payne made the decision to remove this ERP requisition assignment from Annie Grimes' responsibilities because he had received numerous complaints from Aviation Department employees that Annie Grimes was improperly creating requisitions, which created a backlog in procuring parts and hindered the operations of the Utilities section. [*Payne Aff.* ¶8].

19. Melvin Payne's decision in the first few months of 2008 to relieve Annie Grimes from working on requisitions in the ERP system did not in any way reduce Grimes' pay, salary or benefits. Melvin Payne's decision did not change Annie Grimes' work location. There was no significant negative effect on Annie Grimes' classification, status or position as a result of Melvin Payne's decision. Melvin Payne confirmed that his decision to relieve Grimes from working on the requisitions in 2008 was not a demotion. . [*Payne Aff.* ¶¶6 & 9].

20. Annie Grimes was not demoted at any time during her employment with the Aviation Department. During 2007, 2008, and 2009, Annie Grimes was in the same classification of Airport Office Support Services 2. During that time the Aviation Department did not reduce her pay. [*Payne Aff.* ¶6].

21. Effective June 30, 2008, Grimes received a 4% increase in pay to a bi-weekly rate of $1134.92. A true and correct copy of the County personnel record in support is attached as Exhibit K to the Jones-Wilfork Affidavit. This PCD reflects that as of June 30, 2008 Grimes remained in the classification of Airport Office Support Specialist 2 which is summarized in the PCD as "AROFSUPSP2" with occupational code 5306. [*Jones-Wilfork Aff.* ¶15 & *Exhibit K*].

22. For the period covering December 31, 2007 through December 28, 2008, the Aviation Department issued Grimes an annual performance evaluation and granted her a merit increase in pay. A true and correct copy of the County personnel record in support is attached as

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Exhibit L to the Jones-Wilfork Affidavit. Exhibit L also reflects on the first page that Grimes had been maintained as part of the classified service in the classification of Airport Office Support Specialist 2. [*Jones-Wilfork Aff.¶16 & Exhibit L*].

23. The merit increase in pay that the Aviation Department granted to Grimes as a result of the annual evaluation in Exhibit L to the Jones-Wilfork Affidavit was from a bi-weekly rate of $1134.92 to $1174.33 effective December 29, 2008, which is reflected in the PCD, a true and correct copy of which is attached as *Exhibit M* to the Jones-Wilfork Affidavit. This PCD reflects that as of December 28, 2008 Grimes remained in the classification of Airport Office Support Specialist 2 which is summarized in the PCD as "AROFSUPSP2" with occupational code 5306. [*Jones-Wilfork Aff.¶17 & Exhibit M*]. At all times in 2007, 2008 and 2009, Grimes was always in the same classification of Aviation Office Support Specialist 2 with the same occupational code of 5306. [*Jones-Wilfork Aff.¶20*].

24. There was no reduction in Grimes' salary, pay or benefits during 2008. There was no reduction in Grimes' salary, pay or benefits as a result of any filing of any EEOC Charge by Grimes. . [*Jones-Wilfork Aff.¶21*].

25. As the Assistant Director for the Aviation Department over the human resources function for over the last 15 years, Bobbie Jones-Wilfork can certify that Grimes was not demoted in 2008. Any action to demote Grimes at that time would have required a Disciplinary Action Report or other official action which would have required Jones-Wilfork's review. This did not occur. Grimes was not demoted at any time from the time she was hired by the Aviation Department in December 2004 through 2009. [*Jones-Wilfork Aff.¶19*].

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October 24, 2008 Plaintiff Files EEOC Charge Against Aviation Department

26. On October 24, 2008 Plaintiff Grimes signs EEOC Charge Number 846-2009-002802. [Attached As Exhibit A][hereafter "the Grimes 2008 Aviation Department EEOC Charge"].

27. The Grimes 2008 Aviation Department EEOC Charge alleges that Grimes filed a previous charge of discrimination that was withdrawn and that she signed a settlement agreement. Grimes then alleges that in retaliation for this prior EEOC Charge that was settled by a settlement agreement, she was retaliated against by being demoted from work duties with the computer. [Exhibit A].

28. The EEOC issued a Dismissal Notice on August 11, 2010 with the following determination regarding the Grimes 2008 Aviation Department EEOC Charge: "the EEOC is unable to conclude that the information obtained establishes violations of the statutes." [Exhibit B].

Aviation Department Management Did Not Know That Grimes Had Filed And Settled An EEOC Charge Against the Housing Agency Before Grimes Came to Work At Aviation

29. Prior to November 2008, Aviation Department Assistant Director Bobbie Jones-Wilfork did not know that Annie Grimes had filed any EEOC Charge with the Housing Agency, the Aviation Department or any other County department. [*Jones-Wilfork Aff.* ¶*18*].

30. At the time Melvin Payne made the decision in 2008 to remove the ERP requisition assignment from the tasks that Annie Grimes was performing, he was not aware that Annie Grimes had filed an EEOC charge. [*Payne Aff.* ¶*10*].

Aviation Department Gives Plaintiff A Raise After She Files 2008 EEOC Charge Against Aviation Department

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31. Effective December 28, 2009, the Aviation Department granted Grimes a merit increase in pay from a bi-weekly rate of $1174.33 to $1220.26 which is reflected in the attached PCD. A true and correct copy of the County personnel record in support is attached as *Exhibit N* to the Jones-Wilfork Affidavit. This PCD reflects that as of December 28, 2009 Grimes remained in the classification of Airport Office Support Specialist 2 which is summarized in the PCD as "AROFSUPSP2" with occupational code 5306. [*Jones-Wilfork Aff.* ¶*22*].

32. Melvin Payne has not been an employee of the County's Housing Agency nor did he work with Annie Grimes in the County's Housing Agency. [*Payne Aff.* ¶*11*].

Respectfully submitted,

R. A. CUEVAS, JR.
Miami-Dade County Attorney
Stephen P. Clark Center
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Miami, Florida 33128

By: *s/ Eric A. Rodriguez*
Eric A. Rodriguez
Assistant County Attorney
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E-mail: ear2@miamidade.gov
Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on March 29, 2012, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/ Eric A. Rodriguez
Eric A. Rodriguez

SERVICE LIST

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Plaintiff
Served via Regular U.S. Mail

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Attorney for Defendant
No Service Made

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
[X] EEOC 846-2009-02802

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)	Home Phone (Incl. Area Code)	Date of Birth
Ms. Annie L. Grimes	(305) 892-0051	07-22-1949

Street Address / City, State and ZIP Code
12200 Ne 6th Avenue, #209, Miami, FL 33161

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	No. Employees, Members	Phone No. (Include Area Code)
MIAMI DADE COUNTY AVIATION	500 or More	(305) 876-7300

Street Address / City, State and ZIP Code
P.O. Box 592075, Miami, FL 33159

Name	No. Employees, Members	Phone No. (Include Area Code)

Street Address / City, State and ZIP Code

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

[ ] RACE [ ] COLOR [ ] SEX [ ] RELIGION [ ] NATIONAL ORIGIN
[X] RETALIATION [ ] AGE [ ] DISABILITY [ ] OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE
Earliest: 04-15-2008 Latest: 10-24-2008
[ ] CONTINUING ACTION

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

I a person who participated in an activity protected by Title VII when I filed a previous charge against Miami Dade County Aviation and resolved the issue by withdrawing my charge and signing a settlement agreement.

In retaliation, I was demoted from my work duties with the computer and assigned to work as a clerk.

I believe I am being retaliated against in violation of Title VII of the Civil Rights Act of 1964, as amended.

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.

Oct 24, 2008
Date — Charging Party Signature

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)

Exhibit B

EEOC Form 161 (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Annie L. Grimes
12200 NE 6th Avenue, #209
Miami, FL 33161

From: Miami District Office
2 South Biscayne Blvd
Suite 2700
Miami, FL 33131

[ ] On behalf of person(s) aggrieved whose identity is CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
846-2009-02802	Dennis Kendrick, Investigator	(305) 808-1807

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

[X] The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to 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

Enclosures(s)

Delner Franklin-Thomas
Acting District Director

AUG 11 2010
EEOC Miami District Office
(Date Mailed)

cc: William Candella, Assistant County Attorney
MIAMI DADE COUNTY
111 N.W. First St., Suite 2810
Miami, FL 33128

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division

CASE NO. 10-23996 Civ-COOKE

ANNIE GRIMES,

Plaintiff,

v.

MIAMI-DADE COUNTY,

Defendant. /

DEFENDANT'S NOTICE OF FILING
AFFIDAVIT OF BOBBIE JONES-WILFORK

Defendant, Miami-Dade County, files the attached Affidavit of Bobbie Jones-Wilfork in support of its motion for summary judgment.

Respectfully submitted,

R. A. CUEVAS, JR.
Miami-Dade County Attorney
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128

By: s/ Eric Rodriguez
Eric Rodriguez, Assistant County Attorney
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Phone: (305) 375-5151
Fax: (305) 375-5634

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via transmission of Notices of Electronic Filing generated by CM/ECF/via Regular U.S. Mail on March 29, 2012 on all counsel or parties of record on the Service List below.

s/Eric Rodriguez
Assistant County Attorney

SERVICE LIST

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Plaintiff
Served via Regular U.S. Mail

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Fax: (305) 375-5634
Attorney for Defendant
No Service Made

AFFIDAVIT OF BOBBIE JONES-WILFORK

STATE OF FLORIDA

SS:

COUNTY OF MIAMI-DADE

1. BEFORE ME, the undersigned authority, on this day personally appeared Bobbie Jones-Wilfork, who, being first duly sworn, deposes and says as follows:

2. My name is Bobbie Jones-Wilfork and I am over the age of eighteen.

3. I have personal knowledge of the facts contained within this affidavit.

4. I am employed by Miami-Dade County ("the County") in the County's Aviation Department. The Aviation Department operates Miami International Airport and other aviation facilities within Miami-Dade County.

5. At the Aviation Department, I am the Assistant Director of Administration. Among the areas of responsibility under my purview are human resources functions and I have been performing in this position for over 15 years.

6. I am familiar with the County's policies that prohibit discrimination in employment. Specifically, the County has established policies specifically prohibiting discrimination in employment and prohibiting retaliation for protected conduct, copies of which are attached as Exhibits A and B. *See attached Exhibit A, County Administrative Order No. 7-6 - Personnel Policy on Equal Employment Opportunity and Exhibit B, Administrative Order No. 7-37 - Unlawful Harassment.*

7. In 2004, Annie Grimes applied and interviewed for a position with the County's Aviation Department. By letter dated December 3, 2004, Grimes was offered the position with the classification of Airport Office Support Specialist 2. Grimes signed and dated the offer letter on 12/06/2004. The offer letter explained that Grimes would commence employment under the general direction of Melvin Payne. A true and correct copy of the County personnel record in support is attached as *Exhibit C*.

8. Effective December 13, 2004, Grimes commenced employment with the County's Aviation Department in the classification of Airport Office Support Specialist 2 with the occupational code 5306. As a new hire, Grimes was hired in probational status which is reflected in the Personnel Change Document ("PCD") dated 12-13-04 with the letters "AB" to denote probational status. A true and correct copy of the County personnel record in support is attached as *Exhibit D*.

9. Effective January 2, 2006, the Aviation Department granted Grimes permanent status in the County's classified service in the classification of Airport Office Support Specialist 2 and it issued Grimes a satisfactory annual evaluation. A true and correct copy of the County personnel record in support is attached as *Exhibit E*.

10. Effective July 3, 2006, Grimes' salary was increased by 3% to a bi-weekly rate of $986.16. A true and correct copy of the County personnel record in support is attached as *Exhibit F*.

11. Effective January 1, 2007, the Aviation Department granted Grimes a merit increase in pay from $986.16 bi-weekly to $1026.06 bi-weekly. A true and correct copy of the County personnel record in support is attached as *Exhibit G*.

12. Effective July 2, 2007, Grimes' salary was increased by 3% to $1055.34 bi-

weekly. A true and correct copy of the County personnel record in support is attached as *Exhibit H.*

13. For the period covering January 1, 2007 through December 30, 2007, the Aviation Department issued Grimes an annual performance evaluation and granted her a merit increase in pay. A true and correct copy of the County personnel record in support is attached as *Exhibit I.* Exhibit I also reflects on the first page that Grimes had been maintained as part of the classified service in the classification of Airport Office Support Specialist 2.

14. The merit increase in pay that the Aviation Department granted to Grimes as a result of the annual evaluation in Exhibit I was from a bi-weekly rate of $1055.34 to $1093.19 effective December 31, 2007, which is reflected in the attached PCD. A true and correct copy of the County personnel record in support is attached as *Exhibit J.* This PCD reflects that as of December 31, 2007 Grimes remained in the classification of Airport Office Support Specialist 2 which is summarized in the PCD as "AROFSUPSP2" with occupational code 5306.

15. Effective June 30, 2008, Grimes received a 4% increase in pay to a bi-weekly rate of $1134.92. A true and correct copy of the County personnel record in support is attached as *Exhibit K.* This PCD reflects that as of June 30, 2008 Grimes remained in the classification of Airport Office Support Specialist 2 which is summarized in the PCD as "AROFSUPSP2" with occupational code 5306.

16. For the period covering December 31, 2007 through December 28, 2008, the Aviation Department issued Grimes an annual performance evaluation and granted her a merit increase in pay. A true and correct copy of the County personnel record in support is attached as *Exhibit L.* Exhibit L also reflects on the first page that Grimes had been maintained as part

of the classified service in the classification of Airport Office Support Specialist 2.

17. The merit increase in pay that the Aviation Department granted to Grimes as a result of the annual evaluation in Exhibit L was from a bi-weekly rate of $1134.92 to $1174.33 effective December 29, 2008, which is reflected in the attached PCD. A true and correct copy of the County personnel record in support is attached as *Exhibit M.* This PCD reflects that as of December 28, 2008 Grimes remained in the classification of Airport Office Support Specialist 2 which is summarized in the PCD as "AROFSUPSP2" with occupational code 5306.

18. Prior to November 2008, I did not know that Annie Grimes had filed any EEOC Charge with the Housing Agency, the Aviation Department or any other County department.

19. As the Assistant Director for the Aviation Department over the human resources function for over the last 15 years, I can certify that Grimes was not demoted in 2008. Any action to demote Grimes at that time would have required a Disciplinary Action Report or other official action would have required my review. This did not occur. Grimes was not demoted at any time from the time she was hired by the Aviation Department in December 2004 through 2009.

20. At all times in 2007, 2008 and 2009, Grimes was always in the same classification of Aviation Office Support Specialist 2 with the same occupational code of 5306.

21. There was no reduction in Grimes' salary, pay or benefits during 2008. There was no reduction in Grimes' salary, pay or benefits as a result of any filing of any EEOC Charge by Grimes.

22. Effective December 28, 2009, the Aviation Department granted Grimes a merit increase in pay from a bi-weekly rate of $1174.33 to $1220.26 which is reflected in the

attached PCD. A true and correct copy of the County personnel record in support is attached as *Exhibit N*. This PCD reflects that as of December 28, 2009 Grimes remained in the classification of Airport Office Support Specialist 2 which is summarized in the PCD as "AROFSUPSP2" with occupational code 5306.

Further affiant sayeth naught.

Bobbie Jones-Wilfork

Bobbie Jones-Wilfork

Sworn to (or affirmed) and subscribed before me this 29 day of March 2012, by Bobbie Jones-Wilfork

(sign) Cynthia C Collins

(print) Cynthia C Collins

NOTARY PUBLIC,
State of Florida at large

My commission expires:

CYNTHIA C. COLLINS
Notary Public - State of Florida
My Comm. Expires Oct 20, 2013
Commission # DD 934709

Personally known ✓ OR Produced identification ____

Type of identification produced: _____

Exhibit A

Administrative Order

MIAMI-DADE

Administrative Order No.: 7-6
Title: Personnel Policy on Equal Employment Opportunity
Ordered: 2/15/1972 **Effective:** 3/1/1972

AUTHORITY:

Section 4.02 of the Metropolitan Dade County Charter

SUPERSEDES:

This administrative order supersedes previous Administrative Order No. 7-6, dated August 1, 1963.

STATEMENT OF POLICY:

The policy of Dade County is to foster, maintain, and promote equal employment opportunity. The County will select candidates for employment on the basis of candidates' qualifications for the job and treat them with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to sex, race, color, religion, or national origin. Equality in such opportunities continues to be the basic policy of the County.

IMPLEMENTATION OF POLICY:

All personnel whose duties encompass recruiting and employment will continue to review, regularly, the implementation of these personnel policies and the relevant practices to assure that equal employment opportunity based on valid job requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of sex, race, color, religion or national origin.

RECRUITMENT AND HIRING OF MINORITY APPLICANTS:

The County will continue to expand its efforts to attract minority group applicants. This policy applies to all County departments and locations. All executives and supervisory personnel, especially those whose duties encompass recruiting and

employment, have been made aware of this policy. The County expects all management personnel to aid in these efforts.

RECRUITMENT SOURCES:

The recruitment sources shall be advised periodically of the County's Equal Employment Opportunity Policy. The County includes among its recruitment sources organizations and media which are utilized by and are available to minority group candidates. Detailed information about the County job openings, as well as County hiring processes, will be provided to these recruitment sources. Employees, including minority group employees, are encouraged to refer friends and family for employment with the County.

JOB ADVERTISEMENTS:

Employment advertisements shall continue to contain assurances of equal employment opportunity and shall comply with Federal and State Statutes regarding expression of sex, and other qualifications.

APPLICATIONS FOR EMPLOYMENT:

All applicants are given the opportunity to file an application for employment. Comfort, convenience, and all due dispatch will be assured all applicants.

APPLICATION RESERVE FILE:

All applicants are informed as to the possibility or probability of current or later job openings. Applications of all job applicants are kept in a reserve file for a reasonable period.

To the extent that it is practical, reference to these files shall be made periodically in connection with the County's employment requirements. This program is designed to insure equal consideration to both minority and non-minority applicants.

QUALIFICATIONS AND TESTING:

(a) The County's policy includes the responsibility for ensuring that hiring qualifications for both entry and experience-level jobs are fair and shall continue to be fairly administered. These qualifications are subject to regular review to assure that they conform to the actual job performance requirements and to changing and novel situations. The County has continuing responsibility to perform its services and functions efficiently. In keeping with these responsibilities, the County will make use of special programs to test job performance, and develop orientation and training

programs aimed at the elimination of deficiencies of minority groups. Use of aide, intern or enrollee classifications to test job performance is an example of the special programs that will be developed.

(b) Tests which may be administered by the County shall be only those that will measure the skills actually required for the job. Tests are tools employed solely to aid in the selection of the right person for the right job. Tests shall conform to applicable legal regulations and shall be appropriately validated.

(c) All tests given to applicants shall be administered and evaluated by qualified employees who are fully acquainted with County policy as to equal employment opportunity.

COMPENSATION:

The policy of the County is to pay compensation which is, to every extent possible, competitive with local rates for the work performed so that compensation does not create a barrier to the recruitment of minority-group personnel. Opportunities for performing overtime work or otherwise increasing compensation will be afforded to all qualified employees without discrimination based on sex, race, color, religion, or national origin. It is the policy of the County to compensate all employees equally, based upon job classification, experience, and ability.

EQUAL EMPLOYMENT NOTICES:

Notices with regard to equal employment shall be posted in conspicuous places on County premises, where notices are customarily posted.

PROMOTION AND TRAINING:

1. The policy of the County is to provide every reasonable means to see that employees succeed on their jobs and are given opportunities to prepare themselves for full use of their talents and potential. On-the-job training will be provided to prepare employees to meet the full requirements of their new jobs, and special programs developed to meet specialized training needs.

2. Candidates for promotion are chosen on the basis of existing or forecasted job openings and on their qualifications and work record - without regard to sex, race, color, religion, or national origin. Performance appraisals and work records for all personnel, including minority groups, will be carefully examined when openings for higher-level positions occur.

RECORD KEEPING:

1. The County's data processing and other systems will maintain up-to-date records. These records reflect the County's efforts in maintaining its equal opportunity policies. These records include:

(a) Statistics on current employment in the County by:
(1) Dictionary of Occupational Title: job categories code
(2) Racial and ethnic group code classification
(3) Sex code
(4) Job location code

(b) Schedules of job classifications and salary ranges.

(c) Records of all employees hired, including job classifications and salary. These records will identify minority group employees.

(d) Job and salary records of employees promoted, including old and new job classification and salaries.

(e) Records of employees resigned or terminated with the reasons thereof, when known.

(2) An Equal Employment Opportunity Report will be produced semi-annually - thus providing for an analysis of the status of actual equal opportunity within the County system and for an evaluation of progress made in this regard.

This administrative Order is hereby submitted to the board of County Commissioners of Dade County, Florida.

R. Ray Goode

County Manager

Exhibit B

Administrative Order

MIAMI-DADE

Administrative Order No.: 7-37
Title: Unlawful Harassment
Ordered: 4/11/2000 **Effective:** 4/21/2000

AUTHORITY:

Section 4.02 of the Miami-Dade County Home Rule Amendment and Charter; Sections 2-42 and 11A-34 through 37 of the Code of Miami-Dade County; and Administrative Order 7-6.

POLICY:

The policy of Miami-Dade County is to ensure that all employees are able to enjoy a work environment free from all forms of discrimination, including harassment, on the basis of race, sex, color, national origin, religion, retaliation, age, disability, ancestry, marital status, pregnancy, sexual orientation, or the exercise of their constitutional or statutory rights. Administrative Order 7-28 was adopted in 1987 specifically to protect County employees from sexual harassment. Administrative Order 7-28 and Administrative Order 7-6, Personnel Policy on Equal Employment Opportunity, have since been interpreted to extend similar protection to employees who believe they have been harassed for unlawful reasons other than sex. This Administrative Order is intended to make clear that all County employees who believe they have been unlawfully harassed ***must notify the County's Office of Fair Employment Practices or their Departmental Affirmative Action Officer and may file a complaint for prompt and proper investigation.*** Employees who are found guilty of unlawfully harassing other employees shall be subject to appropriate sanctions, depending on the circumstances. These may range from counseling up to and including termination.

Miami-Dade County will not tolerate adverse treatment of employees because they report harassment or provide information related to such complaints. The County, in exercising reasonable care to prevent and promptly correct harassment or retaliation for reporting harassment, will protect victims from further unlawful harassment and retaliation.

DEFINITION:

Unlawful harassment consists of unsolicited, offensive or retaliatory behavior based on race, sex, color, national origin, religion, age, disability, ancestry, marital status, pregnancy, sexual orientation, or an employee's exercise of their constitutional or

statutory rights. It does not refer to occasional comments of a socially acceptable nature ***to a reasonable person***; it refers to behavior that is not welcome, that is personally offensive, that lowers morale, and that, therefore, interferes with the work environment.

Offensive comments about an employee's race, sex, color, national origin, religion, age, disability, ancestry, marital status, pregnancy, sexual orientation, or the exercise of their constitutional or statutory rights constitutes unlawful harassment when (1) submission to such conduct is made either explicitly or implicitly a term of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment. Harassment ***may also take the form of adverse employment actions, such as termination, demotion, or other adverse employment decisions which effect an employee's working conditions****, if such actions are taken on the basis of an employee's race, sex, color, national origin, religion, age, disability, ancestry, marital status, pregnancy, sexual orientation, or an employee's exercise of their constitutional or statutory rights. Employment actions that are based on an employee's performance or other legitimate reasons are not harassment.*

IMPLEMENTATION:

In order to effectively implement the above policy, all County employees must refrain from:

1. Threatening or insinuating, either explicitly or implicitly, that an employee's race, sex, color, national origin, religion, age, disability, ancestry, marital status, pregnancy, sexual orientation, or the exercise of their constitutional or statutory rights will adversely affect their employment, performance evaluations, wages, promotion, assigned duties, shifts, or any other condition of employment or career development.

2. Creating a harassing environment by making offensive racial, ethnic or sexual comments, jokes or slurs, or such other conduct that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an unlawfully intimidating, hostile or offensive working environment.

3. Taking retaliatory action of any kind against any other employee because of that person's seeking redress for, complaining of, or witnessing of, unlawful discrimination or harassment under this policy or through other legitimate channels.

4. Exhibiting any other conduct that falls within the above-stated definition of unlawful harassment.

It shall be the responsibility of each County supervisor to maintain his or her work place free of unlawful harassment. This duty includes discussing this policy with all employees and assuring them that they need not endure insulting, degrading, or exploitive treatment on the basis of race, sex, color, national origin, religion, age, disability, ancestry, marital status, pregnancy, sexual orientation, or the exercise of their constitutional or statutory rights, and informing employees of their right to file complaints about such conduct.

COMPLAINT PROCEDURE:

Employees who believe they have been the subject of harassment prohibited by this Administrative Order, ***must notify the County's Office of Fair Employment Practices or their Departmental Affirmative Action Officer and, if they choose, may file a formal complaint with the County's Office of Fair Employment Practices.*** Employees may, if they desire, also report such incidents of unlawful harassment to their supervisor but are under no obligation to do so. ***Employees are encouraged to report harassment before it becomes severe or pervasive. This will facilitate early mediation and effective resolution of potential unlawful harassment complaints.***

All complaints of harassment, subsequent investigations and corrective actions shall be handled on a confidential basis to the extent possible under the law. Protective measures will be instituted to protect the complainant. Miami-Dade County has established procedures for resolving, filing and processing complaints of unlawful harassment.

If the investigation confirms the existence of unlawful harassment, the Fair Employment Practices Office will pursue prompt corrective action, including remedial relief for the victim, and appropriate disciplinary action against the offender.

COMPLIANCE:

It shall be the responsibility of the Office of Fair Employment Practices to provide compliance information ***to all employees concerning*** the County's harassment policy, the gravity of such conduct, and the procedures to be employed in conducting harassment investigations, as follows:

1. The Office of Fair Employment Practices shall provide necessary unlawful harassment training to managers and supervisors.
2. ***Department Directors shall be responsible for ensuring that employees are apprised of this Administrative Order and mandatory training is conducted.***
3. ***The Office of Fair Employment Practices and the Employee Relations Department will monitor departmental training.***
4. The unlawful harassment policy and procedures will be incorporated in countywide training offered by the Employee Relations Department.

This Administrative Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

*Miami-Dade County Procedures Manual, Procedure Number 414, Filing Discrimination/ Unlawful Harassment Complaint.

M. R. Stierheim
County Manager

Exhibit C

December 3, 2004

Annie Grimes
12200 NE 6 Avenue, #209
Miami, FL 33161

Dear Ms. Grimes:

Based on your interest in employment with the Miami-Dade Aviation Department (MDAD), and your recent interview, we are pleased to offer you the position of Airport Office Support Specialist 2.

If you accept this position you will work under the general direction of Melvin Payne, Manager, Aviation Facilities Maintenance Division. The bi-weekly rate for this position is $853.54.

This offer is contingent upon satisfactory completion of a FBI fingerprint-based criminal history check and a pre-employment physical, which includes screening for alcohol and drug use. You are scheduled to report to the Mt. Sinai Medical Center / Occupational Health Center, Greenspan Building, 4300 Alton Road, Miami Beach, on Monday, December 6, 2004 at 11:30 a.m. Information regarding the result of your FBI fingerprint-based criminal history check and pre-employment physical will be made known to MDAD Personnel within ten (10) days of the scheduled appointments. Upon notification you will be contacted with further information concerning the effective date of your employment with the Miami-Dade Aviation Department.

According to Miami-Dade County Ordinance 97-216 applicants not currently employed by Miami-Dade County must agree to establish and maintain permanent residence in Miami-Dade County within three (3) months of completing the required probationary period from the original appointment date. For those positions without a probationary period, residence must be established and maintained in Miami-Dade County within six (6) months of employment from the original appointment date. Failure to comply with this requirement may result in dismissal from County service.

Furthermore, you are advised that you are subject to further extensive security screening including, but not limited to fingerprint checks, employment verification, and such other procedures as may be mandated by Federal Law. The security clearance required by Federal law is a continuing condition of employment with MDAD.

When you sign your offer letter you are required to present your original Social Security Card and a current picture identification, i.e., valid drivers license, passport, etc.

MIAMI-DADE AVIATION DEPARTMENT • P.O. BOX 592075 AMF • MIAMI, FLORIDA 33159
PHONE: 305.876.7000
www.miami-airport.com

Page 2. Offer Letter

We look forward to your joining the Aviation Department.

Sincerely,

Cynthia C Collins

Cynthia C. Collins
Chief, Aviation Human Resources

****

I accept/decline (circle one) this offer of the Airport Office Support Specialist 2 position with the Miami-Dade County Aviation Department.

Date: 12/06/2004 Signature: [signature]

Exhibit D

•••REVISED IN ACCORDANCE WITH ORD. 97-216•••

MIAMI-DADE

PERSONNEL CHANGE DOCUMENT
Employee Relations Department

SOCIAL SECURITY [redacted] EFFECTIVE DATE 12 13 04

RECEIVED ADMINISTRATIVE RELATIONS DEPT. DIVISION

NAME Grimes Annie L
Last First Initial

1) (A) ORIGINAL APPOINTMENT B RE-EMPLOYMENT R RETIRED RE-EMPLOYED

Dept. 063 Div. 14 Loc. 33 Employee Status Code AB

ROM

Classification Airport Office Support Spec 2 Occupational Code 5306

Complete only if other than step 01 &/or 080 hours. Step 01 Bi-Wkly Hrs. 080

Complete only if Pay Step is 99: Bi-Wkly Rate $. MTA Hrly $.

Will position last for more than 6 months? Yes No Enrolled in Retirement? Yes No

Pay Exceptions Codes 4C

(Attach supporting documents when required)

Req. #	Eligible List#	Index Code	Entity	Sub Entity	Uniform Allow.
4630137		725671	04	01	Yes (No)

2) C TRANSFER D STATUS E REALLOCATION G RATE CHANGE J PROMOTION O OTHER N DEMOTION

FROM: Dept. Div. Loc. Released by:

TO: Dept. Div. Loc. Employee Status Code

Classification Occupational Code

Complete only if Pay Step is 99: Bi-Wkly Rate $ 853.54

Pay Exceptions Codes

(Attach supporting documents when required)

Req. #	Eligible List#	Index Code	Entity	Sub Entity	Uniform Allow.
					Yes No

3) F SEPARATION H RESTORATION I PERSONAL M LEAVE OF ABSENCE O OTHER Reason Code

FROM: TO: No. of Days

4) Remarks: New hire - Probational status (AB)

DEC 17 2004

Budget Status 1

5) Authorization: Cynthia C Collins 12/14/04 12/15/04 Chandra Bhandari

Dept. Appointing Authority Office of Mgmt. & Budget Employee Relations Dept

DO NOT WRITE BELOW THIS LINE

PASSED

Step	Bi-Wkly $	Status Date	Bud St	Approval Date	Sex	Race	Citizenship	DOB	Educ
01	903.54	12/20/04	1	12-6-04	F	B	A	7-22-49	12

Anniv	Martial	Tax Ex	With Code	With Amt	Ex FICA	Ret Code	Ret Amt	Retro Adj	PP Date
12/20/04	S	Ø				21			12/19/04

109.01-52 3/98 DISTRIBUTION: CANARY TO ADMINISTRATIVE SERVICES DIVISION – WHITE RETAINED BY DEPARTMENT

Exhibit E

MIAMI-DADE COUNTY

EMPLOYEE PERFORMANCE EVALUATION

RECEIVED JAN 2 2006 MANAGER ADMINISTRATIVE SERVICES

01/03/2005 01/01/2006 K OF SECOND PAGE)

IMES ANNIE L 063-14-018
PT OFF SUPP SPEC 2 [redacted]
STATUS MERIT INCR LATE
PROBATIONAL
PROB END 01/01/2006 PROB PP: 26
MIAMI-DADE AVIATION DEPARTMENT
MAINTENANCE WAREHSES

DEC 3 0 2005
TO PERSONNEL BY [redacted] DPO 12/18/2005

(INITIAL)

Period Covered From / / (No Day Yr) To / / (Mo Da Yr)

If Prob. Date Ends

Social Security Number

Unit

REASON FOR REVIEW

☒ Merit Raise ☒ Status Change ☐ Annual Review ☐ Other ☐ Due Back to Personnel Section by _____

Raters: It is understood that the importance of each category will vary with job classification and department. Explain your rating in terms of performance in each category. Mark the appropriate box. Use additional sheets if necessary.

1. QUANTITY OF WORK. Includes amount of work performed.

RATING: ☐ Unsatisfactory ☐ Needs Improvement ☐ Satisfactory ☒ Above Satisfactory ☐ Outstanding
Explain Why:

2. QUALITY OF WORK: Includes accuracy, achievement of objectives; effectiveness, initiative and resourcefulness and, neatness of work product.

RATING: ☐ Unsatisfactory ☐ Needs Improvement ☐ Satisfactory ☒ Above Satisfactory ☐ Outstanding
Explain Why:

3. WORK HABITS: Includes attendance, observation of work hours, completion of work on schedule, compliance with rules, policies, and directives, safety practice and use of tools and equipment.

RATING: ☐ Unsatisfactory ☐ Needs Improvement ☒ Satisfactory ☐ Above Satisfactory ☐ Outstanding
Explain Why:

4. INTERPERSONAL SKILLS: Includes participation and teamwork; contribution to unit morale; working cooperatively with the public, peers, and subordinates; and accepting advice and counseling from superiors.

RATING: ☐ Unsatisfactory ☐ Needs Improvement ☒ Satisfactory ☐ Above Satisfactory ☐ Outstanding
Explain Why: