

NO. D-1-GV-13-000384

THE STATE OF TEXAS	§	IN THE DISTRICT COURT OF
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
UNIVERSAL HMO OF TEXAS, INC.,	§	345th JUDICIAL DISTRICT

**APPLICATION PURSUANT TO TEXAS INSURANCE CODE SECTIONS
443.007 AND 443.257 TO AFFIRM THE DENIAL OF RACHEL WILLIS’ CLAIM
TO THE HONORABLE JUDGE OF THIS COURT:**

COMES NOW Jean G. Johnson, Special Deputy Receiver (“SDR”) of Universal HMO of Texas, Inc., (“Universal Texas”) and files this Application pursuant to Texas Insurance Code Sections 443.007 and 443.257 to Affirm the Denial of Rachel Willis’ Claim (*the "Application,"*) and in support respectfully shows the Court as follows:

Introduction to the Application

Rachel Willis filed a proof of claim asserting that she was employed by Universal HMO of Texas, Inc., and that she had been the victim of racial or gender discrimination. Her proof of claim was rejected. Though she filed a barebones objection to the rejection, Ms. Willis failed to provide evidence or documents to support her position, as she was required to do. Ms. Willis fails to show any abuse of discretion or legal error on the part of the SDR. This application seeks to affirm the rejection of Ms. Willis’ proof of claim. Ms. Willis sued Universal HMO of Texas, Inc. and Universal Healthcare, Inc., though she was apparently employed by a third entity, American Managed Care, LLC. She has no claim in any event against any employer.

I. AUTHORITY, EVIDENCE, AND BACKGROUND

1.1 Special Deputy Receiver's Appointment, Relief Requested, and Authority

1.1.1 Universal Texas was placed in rehabilitation by this Court's *Agreed Order Appointing Rehabilitator and Granting Permanent Injunction (the "Rehabilitation Order")* on April 18, 2013. This *Rehabilitation Order* appointed the Texas Commissioner of Insurance as Rehabilitator of the Universal Texas receivership ("Receiver¹."). The Receiver designated Jean G. Johnson as Special Deputy Receiver of Universal Texas on April 29, 2013. Universal Texas was subsequently placed into liquidation on May 17, 2013 by this Court's *Order of Liquidation (the "Liquidation Order.")*

1.1.2 Jurisdiction for all matters regarding the Universal Texas receivership is properly in the 345th Judicial District Court of Travis, County, Texas, as the court in which these delinquency proceedings are pending. TEX. INS. CODE ANN. § 443.005(c). The Special Deputy Receiver requests this Court find that the Court has jurisdiction over the subject matter of this *Application*.

1.1.3 The administration of the Universal Texas receivership is governed by the Texas Insurer Receivership Act, TEX. INS. CODE ANN. § 443 (the "Act") and this Court's *Liquidation Order*. Pursuant to TEX. INS. CODE ANN. § 443.154(a), the Special Deputy Receiver has all the powers of the Receiver, unless specifically limited by the Receiver; therefore, the Special Deputy Receiver is authorized to file this *Application* pursuant to TEX. INS. CODE ANN. §§ 443.155, 443.251, 443.252, 443.253, and 443.255, relating to

¹ "Receiver means liquidator, rehabilitator, or an ancillary conservator, as the context requires." TEX. INS. CODE ANN. § 443.004(a)(22).

notice of liquidation, proofs of claim, and claims filing deadlines for claims, late claims, *de minimus* claims, and contingent and unliquidated claims. The Special Deputy Receiver requests that this Court find that the Special Deputy Receiver is authorized to file this *Application* pursuant to TEX. INS. CODE ANN. §§ 443.154(a), 443.155, 443.251, 443.253, and 443.255.

1.1.4 As set out in the *Application*, the Special Deputy Receiver requests the Court find that the rejection of the proof of claim of Rachel Willis be affirmed, and that Ms. Willis' objection to this rejection be overruled. This request to affirm the rejection is made in accordance with TEX. INS. CODE ANN. §§ 443.257 and 443.007.

1.1.5 The subject matter of this *Application* and the hearing of any objections to the *Application* have been referred to Tom Collins, the receivership master appointed by this Court in this proceeding ("receivership master,") in accordance with Paragraph III (15) of the *Order of Reference to Master* entered on May 22, 2013 (the "*Order of Reference.*")

1.2 Special Deputy Receiver's Evidence Supporting Application

1.2.1 The facts contained in this *Application* have been verified by the affidavit and certification by Jean G. Johnson, Special Deputy Receiver of Universal Texas pursuant to TEX. INS. CODE ANN. § 443.017(b), attached as Exhibit A. This affidavit and certification is incorporated by reference as if fully set out into this *Application*.

1.2.2 The Special Deputy Receiver requests the Court admit Exhibit A into evidence. Exhibit A -1 to the Affidavit of Jean Johnson is the proof of claim filed by Rachel Willis. Exhibit A-1 is attached and incorporated by reference as if fully set out in this

Application. The Special Deputy Receiver requests that Exhibit A-1 be admitted in to evidence.

1.2.3 Exhibit A-2 attached to the Affidavit of Jean Johnson is a series of pertinent deposition pages from the deposition of claimant Rachel Willis. Exhibit A-2 is incorporated by reference as if fully set out in this *Application*. The Special Deputy Receiver requests that Exhibit A-2 be admitted into evidence.

1.2.4 Exhibit A-3 attached to the Affidavit of Jean Johnson is a series of documents of Universal HMO of Texas, Inc. which Jean Johnson as Special Deputy Receiver certified as true and correct copies of records from the insurer, and which were received from the custody of the insurer or found among its effects. These documents are prima facie evidence of the facts disclosed in those records pursuant to TEX. INS. CODE ANN. § 443.017. The Special Deputy Receiver requests that Exhibit A-3 be admitted in to evidence.

1.2.5 Exhibit A-4 attached to the Affidavit of Jean Johnson is the EEOC charge filed by Rachel Willis. The Special Deputy Receiver requests that Exhibit A-4 be admitted into evidence for the limited purpose of demonstrating that Rachel Willis filed a charge and admissions by Rachel Willis.

1.2.6 Exhibit A-5 attached to the Affidavit of Jean Johnson is a copy of the federal complaint which Ms. Willis filed against Universal HMO of Texas, Inc. The Special Deputy Receiver requests that Exhibit A-5 be admitted into evidence for the limited purpose of establishing admissions made by Ms. Willis.

1.2.7 Exhibit A-6 attached to the Affidavit of Jean Johnson is the amendment to proof

of claim made by Ms. Willis. The Special Deputy Receiver requests that Exhibit A-6 be admitted into evidence.

1.2.8 Exhibit A-7 attached to the Affidavit of Jean Johnson is the detailed rejection of Ms. Willis' proof of claim. Exhibit A-8 attached to the Affidavit of Jean Johnson is Ms. Willis' objection. The SDR requests a dismissal of both into evidence. Exhibit B-1 attached to the Affidavit of Robert H. Nunnally, Jr. is a copy of pertinent bankruptcy schedules which Rachel Willis filed in connection with her Chapter 13 bankruptcy.

1.2.9 All of the records previously filed with this Court or attached to this Application with the exception of Exhibit B-1 which is authenticated by Mr. Nunnally, are authenticated as admissible and are true and correct copies of papers, documents, or records which are part of the books, records, documents, and papers of the Universal Texas receivership estate.

1.3 Ms. Willis' Claim(s)

1.3.1 Universal Texas was a Texas-domiciled Health Maintenance Organization², organized under the provisions of Chapter 843 of the Texas Insurance Code for the purpose of providing Medicare Advantage coverage to members.

1.3.2 Rachel Willis filed suit in the United States District Court for the Northern District of Texas, Dallas Division, which named Universal Texas as one of two defendants. *See* Exhibit A-5.

1.3.3 In her suit, Ms. Willis alleges that she is an African-American woman who was an "exemplary employee" of the defendants (including, Universal Texas). She

² As a Health Maintenance Organization, Universal Texas does not have guaranty association coverage; therefore, there is no notice requirement for a guaranty association in this receivership.

alleges that she was “approached regarding becoming a member of management”. She alleges that she was not promoted, but that a Caucasian male younger than Ms. Willis was promoted, despite this person allegedly being less qualified than Ms. Willis. See Exhibit A-5, paragraph 6. Ms. Willis further alleged that she was terminated on or about November 4, 2011. Her suit alleged race discrimination, sex discrimination, age discrimination, retaliation, and libel, slander and defamation. The SDR contests these claims, asserting that she was actually employed with American Managed Care, LLC, that she was terminated for conduct that justified her discharge, and that she can make no showing of discrimination of any kind, including the discrimination she alleges took place in connection with a supposed promotion. Ms. Willis’ recital of facts about the supposed promotion is disputed. The facts about Ms. Willis’ discharge disprove her case.

1.3.4 After Universal Texas entered receivership, Ms. Willis filed a proof of claim which attached her complaint. Her proof of claim detailed the following sums which she sought to claim:

- A. Loan from Parents: \$ 7,500
- B. Loan from Marie Louys \$ 11,000
- C. Base Salary: \$ 100,000
- D. Bonus/Commission: \$ 120,000
- E. Loss of assets: [REDACTED]: \$ 12,600
- F. [REDACTED]: \$ 4,500
- G. Mental Anguish and Stress: \$ 25,000
- H. [REDACTED] medication: \$ 500

I. Attorneys' fees: \$ 25,000.

Total: \$ 306,100.00

See Exhibit A-1 to Affidavit of Jean Johnson.

Subsequently, Ms. Willis amended her demand to the following sums set forth in her amendment to proof of claim:

A. Loan from Parents: \$ 7,500;

B. Loan from Marie Louys: \$11,000

C. [REDACTED] \$ 12,600

D. [REDACTED] \$ 4,500

E. Attorneys' Fees: \$ 25,000

F. Base Salary Loss: \$ 50,000

See Exhibit "A-6" to Affidavit of Jean Johnson.

1.3.5 Ms. Willis filed a Chapter 13 bankruptcy on October 6, 2014. Though Ms. Willis had filed a lawsuit in the United States District Court, and though Ms. Willis had filed a proof of claim in these proceedings, Ms. Willis did not disclose this alleged lawsuit asset to her creditors in her bankruptcy. Instead, she failed to schedule this claim among her assets. She later amended her schedules, but she did not schedule this claim among her assets. See Exhibit "B", which is the Affidavit of Robert H. Nunnally, Jr. and incorporated herein by reference for all purposes. Because she swore in her bankruptcy schedules as to the state of her assets, and because her scheduled assets did not include this claim, the SDR takes the position that one of the many insurmountable hurdles in the way of Ms. Willis' alleged claim is that she is estopped to now contradict her bankruptcy

schedules.

1.3.6 Ms. Willis' claim was rejected with a detailed rejection letter specifying deficiencies in her case and in her proof. *See* Exhibit "A-7" to the Affidavit of Jean Johnson. Ms. Willis filed a timely objection, but she failed to provide detailed facts in support of her objection, failed to file any documentary evidence or otherwise prove up her claim. *See* Exhibit "A-8" to the Affidavit of Jean Johnson. This motion follows after Rachel Willis failed to support her objection.

1.3.7 The Affidavit of Jean Johnson incorporates corporate e-mails that demonstrate why Rachel Willis was terminated. The reason had nothing to do with the claims she now asserts. Included in Exhibit "A-3" is a series of emails that address how Ms. Willis' termination took place. On October 25, 2011, Ms. Willis, a sales agent, wrote to Allison Brown, a company community outreach associate, that she was going to do a series of sales seminars. Ms. Brown wrote her back on October 25, 2011, to say: "OK, what do you mean? You can't do them unless they are submitted to cms [the Center for Medicare and Medicaid Services].

Ms. Willis wrote back that "Ok. Put me done [sic] for no events and I will take care of what I need to do". She went on to say "please don't take this personal Allison. I am working to hard to really care about protocol right now".

Ms. Brown replied

That same day "If the company finds out you are doing events w/out approval its [sic] a big deal. You need to take care of this w roger and craig".

Ms. Willis replied on October 25 that:

“my license is on the line so I do know the State Rules. I am learning the Company rules! I said I will handle my business and I will. Ethics for me is not debatable. When I’m given dates I will report them and until then, put me down for no events”.

Ms. Brown forwarded this email chain to a Chase Bedsole, and on November 4, 2011, Craig Stewart, the Director of Sales in Texas, wrote of Ms. Willis: “Andrew, after talking with Jeff Ludy and Marilyn I believe that we need to terminate this person immediately”.

1.3.8 Included in Exhibit “A-3” to the Affidavit of Jean Johnson are the 2011 Marketing Regulations from CMS. This grid indicates that in 2011, CMS imposed regulations on how sales presentations could be made, and that CMS required notice and reporting to CMS.

The corporate records show that Ms. Willis was terminated for her performance issues, rather than in an act of discrimination or retaliation.

1.3.9 In addition, Ms. Willis’ employer was American Managed Care, LLC rather than Universal HMO of Texas, Inc. See Paragraph 11 to the Affidavit of Jean Johnson.

Argument and Authorities

2.1 Rachel Willis is Barred by the doctrine of Judicial Estoppel

Rachel Willis filed a bankruptcy and failed to schedule this claim as an asset in her bankruptcy. A bankruptcy debtor has an ongoing duty to schedule all of her assets on her bankruptcy schedules. When a bankruptcy debtor fails to do so, that debtor is

estopped from pursuing the unscheduled causes of action.³ The estoppel defeats Ms. Willis' claim. In addition, Ms. Willis now claims she incurred debts which do not appear on her bankruptcy schedules. She is similarly estopped from claiming she owes debts to which she did not attest in her schedules. Though Ms. Willis' Chapter 13 bankruptcy was ultimately dismissed, she never corrected the omission on her bankruptcy schedules. She sought confirmation of her Chapter 13 plan without disclosing this alleged asset. Her failure to schedule the asset while seeking affirmative relief on this alleged asset bars her claim. A true and correct copy of her bankruptcy schedules is attached as Exhibit B-1 and incorporated herein.

2.2 Rachel Willis failed to comply with Texas Insurance Code Section 443.253(c) because her objection does not set forth facts and legal theories showing that she has a valid claim.

Rachel Willis received a detailed denial of her proof of claim. *See* Exhibit A-7. Her objection was scanty and failed to detail a basis for a claim. *See* Exhibit A-8. However, Rachel Willis bore the burden to “clearly set out all facts and the legal basis, if any, for the objections”. *See* Tex. Ins. Code Section 443.253. Her claim may be disallowed on this basis alone.

2.3 As a matter of law, Rachel Willis cannot establish prima facie cases for any of her employment based discrimination and retaliation claims.

a) Willis cannot establish a prima facie case of gender or race discrimination.

In order to succeed on a claim for racial or gender discrimination, Willis must first establish a prima facie case of discrimination. In order to establish a prima facie case

³ *In the Matter of Coastal Plains, Inc.*, 179 F.3d 197 (5th Cir. 1999).

of gender or race discrimination under Title VII, Willis must prove: (1) she was a member of a protected class; (2) she was qualified for her position; (3) she suffered an adverse employment action; and (4) others similarly situated and outside of the protected class were treated more favorably.⁴ Proof of disparate treatment—that is, being treated less favorably than a similarly situated person outside Willis’ protected class—is fundamental to a prima facie case.⁵ Further, in order for another employee to be considered “similarly situated,” Willis must demonstrate the other employee’s circumstances were “nearly identical” in all relevant respects to her own.⁶

Here, Willis’ claims fail with regard to element (4) because no other similarly situated individuals were treated more favorably than her. At her deposition, Willis was wholly unable to identify any individual that was male, younger and/or of a different race that was treated more favorably than her. To date, Willis has only identified one person, a white male named Jay Csipkes (“Csipkes”), she alleges was treated more favorably than her. However, Willis admitted at her deposition that Csipkes never actually received a position at Universal Texas and that she does not believe *anyone* was offered the regional manager position she claims to have applied for.⁷ Accordingly, Willis cannot establish a prima facie case of racial or gender discrimination as a matter of law, and her claims should be dismissed.

⁴ *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 801 (1973); *see Wesley v. Gen. Drivers, Warehouseman & Helpers Local 745*, 660 F.3d 211, 213 (5th Cir. 2011); *see also Bauer v. Albermarle Corp.*, 169 F.3d 962, 966 (5th Cir. 1999).

⁵ *See Munoz v. Orr*, 200 F.3d 291, 299 (5th Cir. 2000).

⁶ *Lee v. Kan. City S. Ry. Co.*, 574 F.3d 253, 260-261 (5th Cir. 2009).

⁷ *See Exhibit A-2*, pg. 65, Ins. 2-5.

b) Willis cannot establish a prima facie case of age discrimination.

To establish a prima facie case of age discrimination under the Age Discrimination in Employment Act (ADEA),⁸ Willis must prove: (1) she was within the protected class of individuals aged forty or older; (2) she was discharged; (3) she was qualified for the position from which she was discharged; and (4) she was either replaced by someone outside the protected class, replaced by someone younger, or was otherwise discharged because of her age.⁹

Simply put, Willis cannot establish a prima facie case of age discrimination. No other similarly-situated, younger sales agent who exhibited the same unwillingness to follow federal regulations and company policy as Willis was treated more favorably than her.¹⁰ In fact, the one person Willis identified during her deposition, C sipkes, was not even hired by Universal Texas, nor was anyone offered the Regional Manager position Willis claims she applied for. Not to mention, the person involved in the employment decision, Craig Stewart, was sufficiently older than Willis.¹¹ Accordingly, Willis' claim fails as a matter of law because she cannot establish a prima facie case of age discrimination.

⁸ A prima facie case under the ADEA is slightly different from the Texas Commission on Human Rights Act (TCHRA). Under the ADEA, a plaintiff must prove that age was the “but for” cause of the challenged adverse employment action. Under the TCHRA, a plaintiff need only show that age was a “motivating factor” in the defendant's decision. Recoverable damages also differ between the two statutes. For example, compensatory damages (e.g., emotional pain and suffering and mental anguish) are not recoverable under the ADEA, but are recoverable under TCHRA. Likewise, “punitive damages” are recoverable under TCHRA, but “liquidated damages” are recoverable under the ADEA.

⁹ See *Brown v. CSC Logic, Inc.*, 82 F.3d 651, 654 (5th Cir. 1996).

¹⁰ See *Exhibit A-2*, pg. 65, lns. 2-5.

¹¹ See *Id.* at pg. 46, lns. 11-21.

c) Willis cannot establish a prima facie case of retaliation.

In order to prove retaliation, Willis must show that she: (1) engaged in a statutorily protected activity; (2) she was thereafter subjected to an adverse employment action; and (3) a causal link exists between the protected activity and the adverse action.¹²

Here, there is no causal link between Willis' November 4, 2011 termination and an application for a promotion or an alleged complaint of discrimination.¹³ In fact, Universal Texas has no record of Willis ever applying for a regional manager position or complaining of discrimination. Universal Texas terminated Willis just a few days after Willis explicitly stated in an e-mail to Universal's Community Outreach Associate that she was "working too hard to care about protocol."¹⁴ This e-mail, together with the follow-up internal emails and the personnel action form stating that her employment was terminated for "Unsatisfactory Job Performance," establish that Universal Texas terminated Willis' employment because of her unwillingness to comply with company policy—not due to some attempt to obtain a promotion or any complaint about discrimination.¹⁵ Accordingly, Willis' claim for retaliation fails as a matter of law and requires dismissal.

¹² *Septimus v. Univ. of Houston*, 399 F.3d 601, 610 (5th Cir. 2005).

¹³ Willis testified that she made one verbal claim of racial discrimination to Roger Gerlach several months before she was terminated, but never followed-up with anyone regarding her complaint. See Exhibit A-2, pg. 66, lns. 8-11; pg 68, lns. 5-7.

¹⁴ *See Id.* at A-3.

¹⁵ *See Id.*

2.4 Universal HMO of Texas, Inc. had a non-discriminatory basis to discharge Ms. Willis

Even assuming *arguendo* that Willis could make a prima facie case to support one or more of her discrimination claims—which she cannot—Universal Texas had a legitimate non-discriminatory basis to discharge Willis.¹⁶ Specifically, on October 25, 2011, Willis sent an e-mail to Universal’s Community Outreach Associate Allison Brown (“Brown”) informing her that she planned to conduct formal advertised marketing events at eight (8) separate locations but had not yet set dates.¹⁷ Brown reminded Willis that all formal events must receive prior approval from CMS and Universal.¹⁸ Willis responded that Brown should “put [her] done [*sic*] for no events and [Willis] would take care of what [she] need [*sic*] to do.”¹⁹ Willis also added that she was “working too [*sic*] hard to care about protocol [*sic*].”²⁰ Brown again reminded Willis that it was a “big deal” for Willis to conduct formal events without Universal’s approval.²¹ Willis replied that she disagreed with Universal’s policy of requiring advance approval of formal events.²² Willis then stated that she would “handle [her] business” and that Brown should “put

¹⁶ See *Tex. Dep’t of Cmty. Affairs v. Burdine*, 450 U.S. 248, 253-254 (1981) (once a prima facie case is established, the employer is required to establish a non-discriminatory reason for the discharge).

¹⁷ See E-mails exchanged between Willis and Brown, included in Exhibit A-3.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

[her] down for no events.”²³ Brown notified Universal Texas’ Director of Sales in Texas, Craig Stewart (“Stewart”) of Willis’ statements.²⁴

Stewart, alarmed by Willis’ statements, discussed them with Universal Health Care Group’s Sales Training Manager Marilyn Stepp (“Stepp”) and Chief Sales and Marketing Officer Jeff Ludy (“Ludy”).²⁵ Universal Texas was alarmed by Willis’ statements in this e-mail exchange. Stewart, Stepp and Ludy became very concerned that Willis intended to conduct formal events independently without obtaining the proper advance approval and was therefore at risk for violating CMS regulations. In light of Universal Texas’ commitment to following all compliance rules and regulations that have been established by federal, state and local authorities, Universal Texas made the decision to terminate Willis’ at-will employment.²⁶

2.5 Ms. Willis’ defamation claim fails as a matter of law.

To support her defamation claim, Ms. Willis must show: (1) Universal Texas published a statement; (2) that was defamatory concerning Ms. Willis; (3) while acting with either actual malice, if Mr. Willis was a public official or public figure, or negligence, if Ms. Willis was a private individual, regarding the truth of the statement.²⁷

Willis seemingly bases her defamation claim on the self-imposed obligation of telling future employers that she was terminated for being a compliance risk²⁸—this is

²³ See E-mails exchanged between Willis and Brown, included in Exhibit A-3.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *WFAA-TV, Inc. v. McLemore*, 978 S.W.2d 568, 571 (Tex.1998).

²⁸ See Exhibit A-2, pg. 75, ln. 18 through pg. 76, ln. 25.

not actionable. In order to succeed on her claim, Willis must prove that Universal Texas made false statements *to someone other than Willis*.²⁹ Willis' deposition testimony demonstrates that she has absolutely no basis on which to bring a defamation claim. Willis could not identify a single individual to whom Universal made false, defamatory statements about her.³⁰ Accordingly, Willis' defamation claim fails as a matter of law.³¹

2.6 Willis' claimed damages are without merit

Even if Willis could establish liability as to one or more of her claims—which she cannot—Willis' claimed damages are without merit because most of them are not recoverable pursuant to the claims alleged.³² Specifically, Willis' claimed damages for: 1) loan from parents; 2) loan from Mary Louys; 3) repossession of vehicle; and 4) apartment eviction are not recoverable damages pursuant to any of Willis' alleged claims.

With regard to the claimed damages that are recoverable pursuant to her alleged claims, Willis has wholly failed to support her damage claims with any evidence. Specifically, Willis has failed to produce evidentiary support regarding her claims for attorneys' fees³³ and "base salary loss."³⁴ Willis has done nothing but arbitrarily place a

²⁹ *Thomas-Smith v. Mackin*, 238 S.W.3d 503, 507 (Tex. App.—Houston [14th Dist.] 2007, no pet.).

³⁰ See Exhibit A-2 at pg. 75, lns. 11-17.

³¹ *Baubles & Beads v. Louis Vuitton, S.A.*, 766 S.W.2d 377, 380 (Tex. App.—Texarkana 1989, no writ) (a statement, verbal or written, is not published if it is only made to the plaintiff).

³² Recoverable damages in employment discrimination cases under Title VII include back pay, front pay, lost wages, and mental anguish. See *Pettway v. American Case Iron Pipe Co.*, 494 F.2d 211, 263 (5th Cir. 1974); *Rutherford v. Harris Cty., Tex.*, 197 F.3d 173, 188 (5th Cir. 1999).

³³ Attorneys' fees are not recoverable pursuant to Willis' defamation claim. See generally *Holland v. Wal-Mart Stores*, 1 S.W.3d 91, 95 (Tex. 1999).

dollar value to her claims for such damages—this is legally and factually insufficient. Accordingly, Willis’ damage claims lack evidentiary support and, more importantly, are legally and factually without merit.

Wherefore, premises considered, the Special Deputy Receiver requests that the Court affirm the rejection of Rachel Willis’ claim, and award the Special Deputy Receiver her costs and all other just and equitable relief.

Respectfully submitted,

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³⁴ Although not entirely clear, it seems that Willis is referring to back pay and/or front pay when she refers to “base salary loss.”

Certificate of Service

One copy of the foregoing document was sent to the persons set forth below by email or certified mail and regular mail in the case of Rachel Willis on February 3, 2016.

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