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Appendix A

United States Court of Appeals
For the Fifth Circuit

No. 21-11111

ONOYOM UKPONG, DOCTOR,

Plaintiff-Appellant,

versus

INTERNATIONAL LEADERSHIP OF TEXAS; KAREN MARX, *individually and in her official capacity as Principal,*

Defendant-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No.3:19-CV-218

Before GRAVES, WILLETT, and ENGELHART, *Circuit Judges.* PER CURIAM: *[1]

*Pursuant to 5TH CIRCUIT RULE 47.5, the COURT has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

Appendix A

Onoyom Ukpong, Ph.D., was formerly employed as an art teacher at International Leadership of Texas Garland High School ("ILTexas"), an open-enrollment charter school in Texas. After receiving multiple letters of reprimand, ILTexas terminated Dr. Ukpong's employment. Dr. Ukpong sued ILTexas and its principal, Karen Marx, alleging race and national discrimination and seeking damages under (1) state tort law, (2) Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 1981, and (3) Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* This court granted summary judgment to both defendants on all claims on grounds of sovereign immunity and timelessness. We AFFAIRM.

I

Dr. Ukpong, a black man, is a native of Nigeria. In August 2017, he applied for and obtained employment as a high school art teacher at ILTexas. But after receiving several reprimand letters stemming from complaints of unprofessionalism toward his students, ILTexas terminated Dr. Ukpong's employment on December 22, 2017.

On February 14, 2018, Ukpong filed a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC"), alleging that ILTexas had discriminated against him on the basis of race and national origin in violation of Title VII. The EEOC did not take action on Dr. Ukpong's charge and issued to him a Notice of Right to Sue on July 6, 2018. The right-to-sue letter informed him of

his right to file a Title VII suit within 90 days of his receipt of the EEOC notice.

Meanwhile, Dr. Ukpong also filed a discrimination complaint with the Texas Workforce Commission ("TWC"). The TWC issued to Dr. Ukpong a Notice of Complainant's Right to File Civil

Action on October 10, 2018. The notice informed Dr. Ukpong of his right to bring a private civil action under Texas Commission on Human Rights Act ("TCHRA") within 60 days of the notice.

On November 5, 2018, Dr. Ukpong sued pro se in Texas state court, alleging that ILTexas had discriminated and retaliated against him on the basis of race and national origin in violation of Title VII and 42 U.S.C. § 1981. ILTexas removed the suit to U.S. District Court for the Northern District of Texas.

After removal to federal court, Dr. Ukpong retained counsel and filed an amended complaint, seeking money damages. He added Defendant Karen Marx, both in her individual and official capacity as principal at ILTexas. His amended complaint asserts three categories of claims against both defendants:

(1) state-law tort claims for vicarious liability, negligence, negligence hiring, and intentional infliction of emotional distress; (2) claims under 42 U.S.C. § 1981 for race discrimination, hostile work environment, retaliation, harassment, and disparate treatment; and (3) claims under Title VII for race discrimination, harassment, disparate treatment,

and hostile work environment. He did not, however, assert any claims under TCHRA.

In October 2021, the district court granted summary judgment to both defendants on all claims. *Ukpong v. Int'l Leadership of Tex.*, No. 3:19-CV-00218-E, 2021 WL 4991077 (N.D. Tex. Oct. 27, 2021). First, the district court held that Dr. Ukpong's state-law claims were barred by sovereign immunity under Texas law because ILTexas is an open-enrollment

charter school. *Id.* at *2. Second, it held that Dr. Ukpong's § 1981 claims were barred by sovereign immunity because § 1981 does not abrogate state sovereign immunity and Texas had not waived its immunity to damages under § 1981. *Id.* Third, the court held that Dr. Ukpong's Title VII claims were time-barred because he did not file suit within the 90-day limitations period after receiving his EEOC right-to-sue letter. *Id.* at *3.

Dr. Ukpong timely appealed.

II

"This court reviews a grant of summary judgment *de novo*, applying the same standards as the district court." *Perez v. Region 20 Educ. Serv. Ctr.*, 307 F.3d 318, 323 (5th Cir. 2002) (citing *Daniels v. City of Arlington*, 246 F.3d 500, 502 (5th Cir. 2001)). "Summary judgment should be granted is there is no genuine issue of material fact for trial and the moving party is entitled to judgment as a matter of law." *Id.* (citing FED. R. CIv. P. 56(c)). "A genuine issue of material fact exists when there is evidence

sufficient for a rational trier of fact to find for the non-movant party." *Id.* (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986)). "[A] party seeking summary judgment always bears the initial responsibility of informing the district court of the basis for its motion, and identifying those portions of the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, which it believes demonstrate the absence of a genuine issue of material fact." *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986) (internal quotation marks omitted). Once the moving party has done so, the non-movant "must do more than simply show that there is some metaphysical doubt as to the material facts." *Matsushita*, 475 U.S. at 586. Instead, the non-movant "is required to identify specific evidence in the record and to articulate the precise manner in which that evidence supports his or her claim." Ragas v. Tenn. Gas Pipeline Co., 136 F.3d 455 (5th Cir. 1998) (citing *Forsyth v. Barr*. 19 F.3d 1527, 1537 (5th Cir. 1994)). "A non-movant will not avoid summary judgment by presenting 'speculation, improbable inferences, or unsubstantiated assertions.'" *Jones v. United States*, 936 F.3d 318, 321 (5th Cir. 2019) (quoting *Lawrence v. Fed. Home Loan Mortg. Corp.*, 808 F.3d 670, 673 (5th Cir. 2015)).

III

On appeal, we consider three of Dr. Ukpong's challenges to the district court's ruling, which correspond to the district court's grouping of his

claims into three groups: state-law tort claims, §1981 claims, and Title VII claims. We do not consider Dr.

Ukpong's argument, raised for the first time on appeal, that the Texas Constitution permits him to sue the defendants notwithstanding their immunity. See *Celanese Corp. v Martin K. Eby Constr. Co.*, 620 F.3d 429, 531 (5th Cir. 2010) (observing the general rule that arguments not raised before the district court are forfeited).

A

Dr. Ukpong first argues that Defendants are not entitled to sovereign immunity against his state-law tort claims because, he contends, ILTexas is not an open-enrollment charter school, and, even if it were, open-enrollment charter schools are not entitled to sovereign immunity.

Dr. Ukpong's position, however, is incorrect on both counts. Taking the two points in reverse order, Texas law is clear that open-enrollment charter school and their employees are generally entitled to immunity from suit and liability. *See* TEX. EDUC. CODE ANN. § 12.1056(a); *El Paso Educ. Initiative, Inc. v. Amex Props.*, LLC, 602 S.W.3d 521, 526-30 (Tex.2020). And the district court noted, there is no genuine dispute that ILTexas is an open-enrollment charter school. In reaching its conclusion, the court properly relied on the declaration of Edward G. Conger, the district superintendent and chief executive officer of ILTexas's campuses in Texas, See FED. R. CIV. P. 56(c)(1) (declarations may support a

summary-judgment motion), as well as the Texas Education Agency's website, which lists ILTexas as an open-enrollment charter school, see *Kitty Hawk Aircargo, Inc. v. Chao*, 418 F.3d 453, 457 (5th Cir. 2005) (permitting judicial notice of agency website). Dr. Ukpong does not cite any record evidence to the contrary.

We therefore agree with the district court that the defendants are entitled to sovereign immunity on Dr. Ukpong's state-law tort claims. Because Texas has not waived its immunity for the types of tort claims Dr. Ukpong has asserted against the defendants, *see* TEX. CIR. PRAC. & REM. CODE ANN. §101.021, we affirm the grant of summary judgment in the defendants' favor on these claims.

B

We reach a similar conclusion with respect to Dr. Ukpong's federal claims under 42 U.S.C. § 1981. The district court correctly noted that § 1981 does not abrogate state sovereign immunity. *Sessions v. Rusk State Hosp.*, 648 F.2d 1066, 1069 (5th Cir. Unit A June 1981). The court also correctly reasoned that, by removing Dr. Ukpong's case to federal court, Texas voluntarily consented to federal-court jurisdiction but not to damages, waiving its immunity to suit but not to liability. *See Meyers ex rel. Benzing v. Texas*, 410 F.3d 236, 255 (5th Cir. 2005). Because Texas has not agreed to damages liability under § 1981, the state retains its immunity against these claims.

On appeal, Dr. Ukpong does not contend that Texas waived its immunity, by removal or otherwise, and therefore he has abandoned any such challenge. *See Anderson v. Jackson State Univ.*, 675 F. App'x 461, 463 (5th Cir. 2017) (per curiam) (litigant can forfeit argument that state defendants waived immunity); *Perez*, 307 F.3d at 332 (same). We see no reason to disturb the district court's ruling.

C

Finally, Dr. Ukpong takes exception to the district court's ruling that his Title VII claims were untimely. Again, we disagree and affirm. "A civil action under Title VII must be brought within ninety days of receipt of a right-to-sue letter from EEOC." *Berry v. CIGNA/RSI-CIGNA*, 975 F.2d 1188, 1191 (5th Cir. 1992) (citing 42 U.S.C. § 2000e-5(f); Price v. Digital Equip. Corp., 846 F.2d 1026, 1027 (5th Cir. 1988)). "This requirement to file a lawsuit within the ninety-day limitations period is strictly construed." *Taylor v. Books A Million, Inc.*, 296 F.3d 376, 379n (5th Cir. 2002). "Courts within this Circuit have repeatedly dismissed cases in which the plaintiff did not file a complaint until after the ninety –day limitation period had expired." *Id.* Here Dr. Ukpong was issued an EEOC right-to-sue letter on July 6, 2018, but did not file suit until November 5, 2018, well outside the 90-day limitations period.

Dr. Ukpong resists this straightforward conclusion, arguing that the 90-day limitations period for his federal Title VII claims runs not from the date of the EEOC notice, as the statute provides, but from

the date he received authorization from the TWC to bring a state-law claim under the TCHRA. But he cites no authority in support of his counterintuitive position. More importantly, we have previously held that EEOC right-to-sue letters are not interchangeable with TWC right-to-sue letters, acknowledging that "receipt of a TCHR [A] letter would *not* trigger the analogous EEOC ninety-day filing period." *Vielma v. Eureka Co.*, 218 F.3d 458, 466 (5th Cir. 2000) (emphasis in original). This is because, under the terms of the statute, the EEOC letter is "the exclusive mechanism for commencing the federal filing period." *Id.* (citing *Muth v. Cobro Corp.*, 895 F. Supp. 254, 256 (E.D. Mo. 1995)); see 42 U.S.C. § 2000e-5(f)(1).

Dr. Ukpong also argues, for the first time on appeal, that the lenient construction we typically afford to pro se pleadings should save his untimely filed complaint because, when he filed it in state court, he was proceeding pro se.[2] We decline to do so. "Procedural requirements established by Congress for granting access to the federal courts are not to be disregarded by courts out of vague sympathy for particular litigants." *Baldwin Cnty. Welcome Ctr. V. Brown*, 466 U.S. 147, 152 (1984) (per curiam) (internal quotation marks omitted). Here, a liberal construction of Dr. Ukpong's complaint cannot bring November 5, 2018, within 90 days of July 6, 2018. Instead, we have consistently enforced Title VII's

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[2] Although arguments not raised before the district court are forfeited, see *Celanese*, 620 F.3d. at 531, we consider this argument to underscore the limits of this Court's liberal construction of pro se pleadings.

strict deadline even against pro se litigants. *E.g.*, *Taylor*, 296 F.3d at 380 (one day late); *Urbina v. United Parcel Serv. Inc.*, 335 F. App'x 418, 419 (5th Cir. 2009) (per curiam) (two days late).

IV

In sum, Dr. Ukpong's state-law are barred by sovereign immunity because Texas has not consented

to liability for the types of claims alleged here. Dr. Ukpong's remaining claims, under Title VII are time-barred because he did not file suit within the 90-day limitations period.

The judgment of the district court is AFFIRMED.

Appendix B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

No. 3; 19-vc-0218-E

ONOYOM UKPONG, DOCTOR,

Plaintiff-Appellant,

versus

INTERNATIONAL LEADERSHIP OF TEXAS; KAREN MARX, *individually and in her official capacity as Principal,*

Defendant-Appellees.

FINAL JUDGMENT

This judgment is entered pursuant to the Court's Memorandum Opinion and Order this same date, in which the Court granted Defendants' Motion for Summary Judgment.

It is therefore ORDERED, ADJUDGED, and DECREED that Plaintiff Dr. Onoyom Ukpong take nothing by this suit against Defendants and that Plaintiff's claims are dismissed with prejudice. All costs are to be borne by the party which incurred them.

SO ORDERED.
Signed October 27, 2021.

ADA BROWN
UNITED STATES DISTRICT JUDGE

Appendix C

MEMORANDUM OPINION AND ORDER

ADA BROWN
UNITED STATES DISTRICT JUDGE

The Court stayed this case pending a ruling on the Defendants' Motion for Summary Judgment (Doc. 74), the response, and the reply, as well as the supporting appendices,, applicable law, and any relevant portions of record. For reasons that follow, the Court grants Defendants motion.

Background

Plaintiff, Dr. Onoyom Ukpong, was pro se when he initiated this lawsuit in state court against Defendant International Leadership of Texas (ILT). He is now represented by counsel. ILT timely removed the case to this Court on the basis of federal question jurisdiction. After removal, Plaintiff amended his complaint and added Karen Marx as defendant. Plaintiff's First Amended Complaint alleges he was employed as an art teacher by ILT. ILT runs charter schools, including Garland High School, where Plaintiff worked. Defendant Marx was the Principal of Garland High School, employed in a managerial capacity by ILT, and Plaintiff's immediate supervisor. After Plaintiff's employment was terminated, he filed this action.

He asserts claims under 42 U.S.C § 1981 for race discrimination, hostile work environment, retaliation, and disparate treatment and claims under Title Vii of

the Civil Rights Act of 1964 for race discrimination, harassment, disparate treatment, and hostile work environment. Plaintiff further asserts state law claims for vicarious liability, negligence, negligent hiring, and intentional infliction of emotional distress. Defendants have moved for summary judgment on all Plaintiff's claims.

To be entitled to summary judgment, a party must show there is no genuine dispute as to any material fact and it is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). The party moving for summary judgment bears the initial burden of informing the court of the basis for the motion and identifying the portions of the record that it believes demonstrate the absence of a genuine issue of material fact. *Meinecke v. H&R of Houston*, 66 F.3d 77, 81 (5th Cir. 1995). If the movant meets its burden, the burden shifts to the nonmovant to establish the existence of a genuine issue for trial. *Id.* In ruling on the summary judgment motion, this Court reviews the evidence and the inferences to be drawn therefrom in the light most favorable to the nonmovant. *Norman v. Apache Corp.*, 19 F.3d 1017, 1021 (5th Cir. 1994).

Sovereign Immunity

First, Defendants assert sovereign or governmental immunity bars suit or liability for Plaintiff's state law tort claims. They argue that ILT is an open-enrollment charter school and open-enrollment charter schools and their employees are immune to the same extent as a school district and its employees.

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In 2011, the Texas Supreme Court held that open-enrollment charter schools are governmental units for purposes of the Texas Tort Claims. *LTTS Charter School, Inc. v. C2 Constr., Inc.*, 342 S.W.3d 73, 82 (tex. 2011). Thereafter the Texas Legislature amended the education code to expressly provide that an open-enrollment charter school is a governmental unit as defined by the tort claims act. Tex. Educ. Code Ann. § 12.1056(b). Section 12.1056 further provides that in matters related to operation of an open-enrollment charter school, an open-enrollment charter school or charter holder is immune from liability and suit to the same extent as a school district, and the employees of such a school are immune from liability and suit to the same extent as school district employees. *Id.* § 12.1056(a).
Defendants' summary judgment includes the declaration of Edward Conger, who has worked as ILT's District Superintendent since 2013. He is the chief executive officer of ILT's campuses in Texas.

The declaration states that ILT is classified as an open-enrollment charter schoolboy the Texas Education Agency (TEA). The ILT Garland High School location is an open-enrollment charter school. Admission and enrollment is open to persons who reside within the geographic boundaries set out in the school's charter. For a student to be admitted, the parent must follow established guidelines for admission and lottery process. ILT is accountable to the State of Texas through oversight of its charter and the receipt of substantial public funding.

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Defendants also ask the Court to take judicial notice of the TEA's website. ILT Garland High School is on the TEA's list of open-enrollment charter school. *See http://pryor.tea.state.tx/Charter/Forms/ReportViewer Public.aspx?reportid=rptcertaingrade.rpt.* It is appropriate for the Court to take judicial notice of information posted on a government website. *See Kitty Hawk Aircargo, Inc. v. Chao* 418 F.3d 453, 457 (5th Cir. 2005): see also Fed. R. Evid. 201(d) (court may take judicial notice at any stage of proceeding).

Plaintiff does not dispute that open-enrollment charter schools are entitled to sovereign immunity. He contends Defendants cannot prove ILT is an open-enrollment charted school. Without citation to authority, Plaintiff asserts Conger's declaration is not definite proof because Conger is an employee. Citing ILT's website, Plaintiff argues that ILT's procedures for admission suggest it is not an open-enrollment school. Plaintiff also cites the fact that ILT is a corporation, not a governmental entity. The Court does not find this argument persuasive as open-enrollment charters are typically held and run by non-profit corporations. *See Honors Academy, Inc v. Tex. Educ. Agency*, 555 S.W.3d 54, 57 (Tex. 2018).

The Court concludes Defendants have established that ILT is an open-enrollment charter school. Plaintiff has failed to produce evidence raising a genuine issue of material fact on this issue. Accordingly, Defendants are immune from suit as to Plaintiff's state-law tort claims.

Appendix C

Defendants also contend they are entitled to summary judgment on Plaintiff's § 1981 claims under the doctrine of Eleventh Amendment sovereign immunity. They argue that because ILT is an open-enrollment charter school, it and its employees are entitled to the protections of sovereign immunity as to the § 1981 claims, unless that immunity has been waived by the State of Texas or abrogated by Congress. The Eleventh Amendment provides that the "judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state." U.S. Const. amend. XI. The reference to actions "against one of the United States" encompasses not only actions in which a State is actually named as a defendant, but also certain actions against state agents and state instrumentalities. *Southern Bell Tel. Co. v. City of El Paso*, 243 F3d. 937 (5th Cir. 2001). In federal courts, §1981 claims against a state entity are barred by the Eleventh Amendment. *Muhammad v. Dallas Cty.*

Cmty. Supervision & Corr. Dep't, No. 3:03-CV- 1726-M, 2007 WL 2457615, at *3 (N.D. Tex. Aug. 30, 2007). Section 1981 does not waive a state's Eleventh Amendment immunity. *Sessions v. Rusk State Hosp.*, 648 F2d 1066, 1069 (5th Cir. 1981).*5 Plaintiff argues that Defendant cannot claim immunity from liability because ILT removed the case from state court. Plaintiff also states, "To be sure, the Defendants have not filed an Answer in this case, and the Motion for Summary Judgment following the denial of its Motion to Dismiss, is the first time it has asserted immunity." These arguments lack merit. When ILT

removed the case to federal court, it voluntarily invoked the court's jurisdiction and waived its immunity from suit in federal court. *See Meyers ex rel. Benzing v. Tex.*, 410 F.3d 236, 255 (5th Cir. 2005). A state defendant may continue to assert immunity from *liability* even after removal to federal court. *Cephus v. Tex. Health & Human Servs. Comm'n*, 146 F.Supp.3d 818, 828-29 & n.3 (S.D. Tex. Nov. 19, 2015) (citing Meyers, 410 F.3d at 255). In addition, contrary to Plaintiff's assertion, Defendants did answer to the amended complaint and their answer lists the doctrine of sovereign and/or governmental immunity as an affirmative defense. The Court concludes Defendants are entitled to summary judgment on Plaintiff's § 1981 claims.

Title VII Claims

Next, the Court addresses Plaintiff's Title VII claims. Defendants have moved for summary judgment on these claims on grounds that they are time barred. A civil action under Title VII must be brought within 90 days of receipt of a right-to-sue letter from the Equal Employment Opportunity Commission (EEOC). *Wright v. Arlington Indep. Sch. Dist.*, 834 Fed. App'x 897, 901 (5th Cir. 2020); *Berry v. CIGNA/RSI-CIGNA*, 975 F.2d 1188, 1191 (5th Cir. 1992); see 42 U.S.C. § 2000e 5(f). Defendants contend Plaintiff did not file suit within that time frame.

Plaintiff's amended complaint alleges he exhausted his administrative remedies and "has been issued a "Right to Sue." As Plaintiff acknowledges in his response to the summary judgment motion, the

Appendix C

EEOC issued Plaintiff a right-to-sue letter on July 6, 2018. Plaintiff filed this action in state court on November 5, 2018, more than 90 days after the letter was issued. He contends this action is timely because he filed it within 60 days of receiving an October 10, 2018 right-to-sue letter from Texas Workforce Commission (TWC).

Defendants maintain that Plaintiff's cannot rely on the TWC letter because it provided authority to file Texas Commission on Human Rights Act (TCHRA) claims only. The Court agrees. The letters are not interchangeable. The Fifth Circuit has stated that receipt of a TWC letter does not trigger the EEOC ninety-day filing period. *See Vielma v. Eureka Co.*, 218 F.3d 458, 466-67 (5th Cir. 2000). "Receipt of the federal letter appears to be the exclusive mechanism for commencing the federal filing period." *Id.* at 466. As Plaintiff did not file his lawsuit within 90 days of receiving the EEOC right-to-sue letter, the Court concludes that Plaintiff's Title VII claims are untimely as a matter of law.

In addition, Defendant Marx asserts she is entitled to summary judgment on Plaintiff's Title VII claims because individuals are not liable under Title VII. Plaintiff responds that Marx "cannot escape liability in her individual capacity." The Court agrees with Marx. Individuals are not liable under Title VII in either their individual or official capacities." *Ackel v. Nat'l Commc'ns, Inc.*, 339 F.3d. 376, 381 n.1 (5th Cir. 2003). Defendants are entitled to summary judgment on Plaintiff's Title VII claims.

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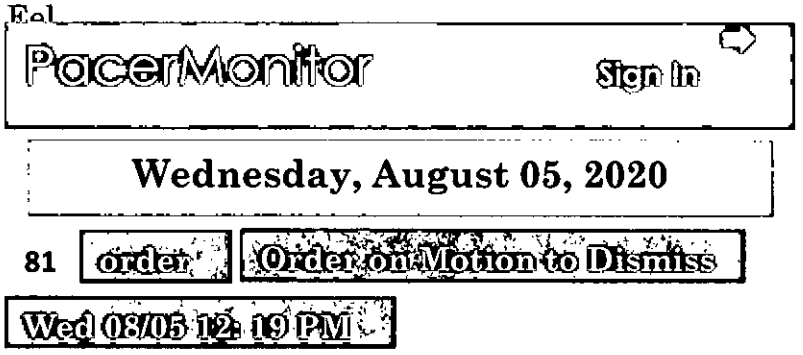
In sum, the Court has concluded that Defendants are entitled to summary judgment on all Plaintiff's claims. Plaintiff has a pending motion for referral to a magistrate judge for mediation (Doc. 94). The Court **denies** that motion as moot in the light of the Court's decision that Defendants are entitled to summary judgment on all of Plaintiff's claims.
SO ORDERED.

Appendix D



ELECTRONIC ORDER denying without prejudice 32 Defendants' Motion to Dismiss. Defendants' pending Motion for Summary Judgment raises many of the same issues raised in the Motion to Dismiss. The Court will decide these issues on the more complete record available in connection with the Motion for Summary Judgment. (Ordered by Judge Ada Brown on 8/15/2020) (chmb)

Appendix E

U.S. Equal Employment Opportunity Commission

NOTICE OF RIGHT TO SUE
(ISSUED ON REQUEST)

To: Onoyom Ukpong	From:Dallas District Office
695 Junction Dr	207 S. Houston St.
Apt. # E 208	3rd Floor
Allen, TX 75013	Dallas, TX 75202

This is
In Record

App. 003

Ptnr.'s appln. for
extn. of time to file

Appendix F

Texas Workforce Commission
A Member of Texas Workforce Solutions

October 10, 2018

NOTICE OF COMPLAINANT'S
RIGHT TO FILE
CIVIL ACTION

Onoyom Ukpong
c/o Kershena Queenan
Kilgore & Kilgore PLLC
3109 Carlisle Street
Dallas, TX 75204

Re: Onoyom Ukpong v. International Leadership of

Texas EEOC Complaint # 450-2018-02715

Dear Onoyom Ukpong:

The above-referenced case was processed by the United States Equal Employment Opportunity Commission or a local agency. Pursuant to Sections 21.252 and 21.254 of the Texas Labor Code, this notice is to advise you of your right to bring a private civil action in state court in the above-referenced case. YOU HAVE SIXTY (60) DAYS FROM THE

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RECEIPT OF THIS NOTICE TO FILE THIS CIVIL ACTION. If your case has been successfully resolved by the U. S. Equal Employment Opportunity Commission or another agency through a voluntary settlement or conciliation agreement, you may be prohibited by the terms of such an agreement from filing a private civil action in state court pursuant to the Texas Commission on Human Rights Act, as amended.

The United States Supreme Court has held in Kremer v. Chemical Construction Corporation, 456 U.S. 461 (1982), that a federal district court must generally dismiss a Title VII action involving the same parties and raising the same issues as those raised in a prior state court action under Chapter 21 of the Texas Labor Code. Therefore, filing a lawsuit in state court based on the issuance of this notice of right to file a civil action may prevent you from filing a lawsuit in federal court based on Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e - et seq.

Sincerely,
Lowell A. Keig
Director, Civil Rights Division
RETAIN ENVELOPE TO VERIFY DATE RECEIVED
Copy to:
International Leadership of Texas
c/o: Allison Day
Littler Mendelson, P.C.
2301 McGee Street, 8th Floor
Kansas City, MO 64108

Appendix G

Copy of petition delivery status as of May 2, 2023