

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

EQUAL EMPLOYMENT OPPORTUNITY	:	
COMMISSION,	:	
	:	CASE NO. 2:05-cv-00881
<i>Plaintiff,</i>	:	
	:	JUDGE SMITH
GLEN GREENWOOD,	:	
	:	MAGISTRATE JUDGE KEMP
<i>Plaintiff-Intervenor,</i>	:	
	:	
v.	:	
	:	
OHIO CIVIL SERVICE EMPLOYEES’	:	
ASSOCIATION, AFSCME Local 11, AFL-CIO,	:	
	:	
<i>Defendant,</i>	:	
	:	
and	:	
	:	
STATE OF OHIO, OHIO ENVIORNMENTAL	:	
PROTECTION AGENCY, OHIO DEPARTMENT	:	
OF ADMINISTRATIVE SERVICES, OHIO	:	
STATE EMPLOYMENT RELATIONS BOARD,	:	
	:	
<i>Rule 19 Defendants.</i>	:	

**DEFENDANT STATE EMPLOYMENT RELATIONS BOARD’S ANSWER TO  
PLAINTIFF-INTERVENOR GREENWOOD’S COMPLAINT**

1. Paragraph 1 of Plaintiff-Intervenor Glenn Greenwood’s (“Greenwood”) complaint calls for no response by Defendant State Employment Relations Board (“SERB”).
2. SERB admits that venue is proper in this District and Division. The remainder of paragraph 2 consists solely of legal conclusions, and calls for no response by SERB.
3. For want of knowledge, SERB denies that on or about December 9, 2002 Greenwood filed charges with the United States Equal Employment Opportunity Commission (“EEOC”) against Defendant Ohio Civil Service Employees Association, AFSCME Local 11,

AFL-CIO (“OCSEA”). SERB admits the remaining allegations in paragraph 3 of Greenwood’s complaint.

4. SERB admits that on September 23, 2005, EEOC filed this action. The remainder of paragraph 4 consists solely of legal conclusions, and calls for no response by SERB.

5. SERB admits the allegations in paragraph 5 of Greenwood’s complaint.

6. SERB admits the allegations in paragraph 6 of Greenwood’s complaint.

7. SERB admits the allegations in paragraph 7 of Greenwood’s complaint.

8. SERB denies that it is a proper party pursuant to Fed. R. of Civ. P. 19(a). SERB admits the remaining allegations in paragraph 8 of Greenwood’s complaint. SERB denies that it ever was or is Greenwood’s employer.

9. SERB admits that during at least parts of 2002, Greenwood was employed by Defendant Ohio Environmental Protection Agency (“OEPA”) and was subject to the State of Ohio’s 2000-2003 collective bargaining agreement with OCSEA. For want of knowledge, SERB denies the remaining allegations in paragraph 9 of Greenwood’s complaint.

10. SERB admits that Greenwood informed SERB that Greenwood was a member of the First Presbyterian Church in Lancaster, Ohio (“PCUSA”), and is an Elder of the church and has been a member for more than twenty-five (25) years. For want of knowledge, SERB denies the remaining allegations in paragraph 10 of Greenwood’s complaint.

11. SERB admits that Greenwood informed SERB that Greenwood objected to OCSEA’s parent’s views on abortion and homosexuality. For want of knowledge, SERB denies the remaining allegations in paragraph 11 of Greenwood’s complaint.

12. For want of knowledge, SERB denies the allegations in paragraph 12 of Greenwood’s complaint.

13. For want of knowledge, SERB denies the allegations in paragraph 13 of Greenwood's complaint.

14. For want of knowledge, SERB denies the allegations in paragraph 14 of Greenwood's complaint.

15. SERB admits that Greenwood made a filing with SERB (see paragraph 16 below). For want of knowledge, SERB denies the remaining allegations in paragraph 15 of Greenwood's complaint.

16. On July 15, 2002, Greenwood filed with SERB an Application for a Religious Exemption, SERB Case No. 2002-RLX-07-0001 that, if granted, would have allowed Greenwood, in lieu of OCSEA's fair share fee, to pay an amount of money equal to the fair share fee to a non-religious charitable fund exempt from taxation under § 501(C)(3) of the Internal Revenue Code mutually agreed upon by Greenwood and OCSEA, pursuant to Ohio Revised Code § 4117.09(C). SERB admits that Greenwood stated he is a member of the First Presbyterian Church in Lancaster, Ohio. SERB admits that Greenwood stated that the Presbyterian Church has no historically held conscientious objection to its members joining or financially supporting an employee organization. SERB admits that Greenwood stated that the basis of his request was one of personal conviction concerning association with OCSEA. SERB admits that on September 19, 2002 it denied Greenwood's Application for Religious Exemption. SERB admits that its denial stated that Greenwood submitted a letter stating that the basis for his filing was personal, and that he failed to file verification of his church's historically held conscientious objections to joining or financially supporting an employee organization, as required pursuant to Ohio Revised Code § 4117.09(C).

17. SERB admits that EEOC on April 30, 2003 issued a determination finding a violation of law by SERB and invited it to enter into conciliation. For want of knowledge, SERB denies the remaining allegations in paragraph 17 of Greenwood's complaint.

18. SERB admits that EEOC's conciliation was not successful. For want of knowledge, SERB denies the remaining allegations in paragraph 18 of Greenwood's complaint.

19. Paragraph 19 consists solely of legal conclusions, and calls for no response by SERB.

20. SERB denies the allegations in paragraph 20 of Greenwood's complaint.

**FIRST AFFIRMATIVE DEFENSE**

21. SERB has not been properly named as a party pursuant to Fed. R. Civ. P. 19(a).

**SECOND AFFIRMATIVE DEFENSE**

22. Greenwood did not exhaust his remedies, under Ohio Revised Code Chapter 4117.

**THIRD AFFIRMATIVE DEFENSE**

23. Ohio Revised Code § 4117.09(C) does not violate any portion of the Civil Rights Act, and Ohio Revised Code § 4117.09(C) has not been invalidated, either in whole or in part, by any court of competent jurisdiction, since it was enacted.

**FOURTH AFFIRMATIVE DEFENSE**

24. Greenwood's claims against SERB, if any, are barred by the Eleventh Amendment to the United States Constitution and/or by sovereign immunity.

**FIFTH AFFIRMATIVE DEFENSE**

25. EEOC's complaint fails to state a claim for which relief can be granted.

WHEREFORE, Defendant State Employment Relations Board respectfully requests that the Court dismiss all of Plaintiff Glenn A. Greenwood's claims against Defendant State Employment Relations Board, for its costs expended herein and for whatever other relief the Court deems appropriate.

Respectfully submitted,

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Attorney General

/s/ Michael D. Allen  
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Counsel for Defendant  
State Employment Relations Board

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of this foregoing was made via electronic mail with the Clerk of the United States District Court, Southern District of Ohio, Eastern Division, using the CM/ECF system, which will send notification of such filing to the parties listed below this 14<sup>th</sup> day of November, 2005:

Donald C. Brey, Counsel for Intervenor Plaintiff

Bruce N. Cameron, Counsel for Intervenor Plaintiff

C. Larry Watson, Regional Attorney, Counsel for Plaintiff

Lawrence Mays, Supervisory Trial Attorney, Counsel for Plaintiff

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11, AFL-CIO

Jack W. Decker, Counsel for Defendants Trial Counsel for State of  
Ohio, Ohio Department of Administrative Services, Ohio  
Environmental Protection Agency

**/s/ Michael D. Allen**  
MICHAEL D. ALLEN  
Assistant Attorney General