

U.S. Department of Labor

Administrative Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001



IN THE MATTER OF:

DOROTHY ARTIS,

ARB CASE NO. 2024-0059

COMPLAINANT,

ALJ CASE NO. 2023-TAX-00009

ALJ MONICA MARKLEY

v.

DATE: May 28, 2026

ATLANTA CHEESECAKE CO.,

RESPONDENT.

Appearances:

For the Complainant:

Dorothy Ann Artis; *Pro Se*; Marietta, Georgia

For the Respondent:

Laura E. De Santos, Esq., Megan M. Mitchell, Esq., Hayley D. Friedman, Esq.; *Gordon Rees Scully Mansukhani, LLP*; Houston, Texas

Before KAPLAN and BURRELL, Administrative Appeals Judges

DECISION AND ORDER

This case arises under the employee protection provisions of the Taxpayer First Act of 2019 (TFA or Act) and its implementing regulations.¹ Complainant Dorothy Artis filed a complaint with the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) alleging that Respondent Atlanta Cheesecake Company unlawfully retaliated against her in violation of the TFA. On July 19, 2024, a United States Department of Labor Administrative Law Judge (ALJ) issued a Decision and Order (D. & O.) Granting Respondent's Motion for Summary Decision and Denying Complaint and Order Canceling Hearing.

¹ 26 U.S.C. § 7623(d); 29 C.F.R. Part 1989 (2025).

Complainant appealed the matter to the Administrative Review Board (ARB or Board).² For the following reasons, we affirm the ALJ's dismissal of Complainant's complaint.

Complainant was terminated from her employment with Respondent on December 21, 2021.³ Complainant filed a complaint with the Equal Employment Opportunity Commission (EEOC) against Respondent on February 13, 2021, alleging sexual harassment and race discrimination. Complainant and Respondent settled the matter, with Respondent paying Complainant a settlement in two parts, one based on wages and the other non-wage based.⁴ Notwithstanding the settlement, Complainant later filed a claim with OSHA alleging retaliation for engaging in protected activity under the TFA.⁵ Complainant claims that her protected activity was found in her EEOC charge. The ALJ summarized the content of her EEOC charge in detail, observing mostly race and gender discrimination

² The Secretary of the Department of Labor has delegated authority to the Board to review appeals from ALJ decisions and to issue agency decisions in cases arising under the TFA. Secretary's Order No. 01-2020 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board (Secretary's discretionary review of ARB decisions)), 85 Fed. Reg. 13186 (Mar. 6, 2020); 29 C.F.R. § 1989.110(a). The Board reviews an ALJ's grant of summary decision de novo under the same standard the ALJ applies. *Jahanbin v. The Boeing Co.*, ARB No. 2024-0035, ALJ No. 2023-AIR-00023, slip op. at 3-4 (ARB Mar. 13, 2025) (citing *Xanthopoulos v. Mercer Inv. Consulting*, ARB No. 2022-0032, ALJ No. 2021-SOX-00017, slip op. at 10 (ARB Sept. 28, 2023)).

³ D. & O. at 2.

⁴ *Id.*

⁵ The TFA prohibits discrimination or discharge against employees who:

provide information, cause information to be provided, or otherwise assist in an investigation regarding underpayment of tax or any conduct which the employee reasonably believes constitutes a violation of the internal revenue laws or any provision of Federal law relating to tax fraud, when the information or assistance is provided to the Internal Revenue Service, the Secretary of the Treasury, the Treasury Inspector General for Tax Administration, the Comptroller General of the United States, the Department of Justice, the United States Congress, a person with supervisory authority over the employee, or any other person working for the employer who has the authority to investigate, discover, or terminate misconduct .

...

26 U.S.C. § 7623(d)(1)(A).

claims.⁶ In the light most favorable to Complainant, her EEOC complaint included a brief mention of an employee who was “working 7.5 years illegally under a false name.”⁷ This charge does not demonstrate anything remotely protected under the TFA. It does not convey a reasonable belief of a violation of internal revenue laws or any provision of federal law related to tax fraud.⁸ The ALJ entered summary decision for Respondent, concluding that Complainant’s EEOC charge was not protected under the TFA and that settlement payments were not adverse because they were made in accordance with the settlement agreement.⁹

Having reviewed the evidentiary record on summary decision, and upon consideration of the parties’ briefs on appeal, the Board concludes that Complainant has failed to demonstrate that the ALJ committed reversible error in granting summary decision in favor of Respondent. The ALJ’s determination that Complainant failed to show a genuine issue of material fact that she engaged in protected activity under the TFA is supported by the record.¹⁰ While the Complainant substantiates her TFA claim on appeal with new facts and arguments, that material was not part of the initial EEOC charge. Reviewing the contents of the EEOC, the ALJ concluded there was no genuine issue of material fact that it did not contain content remotely applicable to the TFA. Finding no error in the ALJ’s decision, the Board affirms the ALJ’s dismissal of Complainant’s complaint.

⁶ D. & O. at 8.

⁷ February 13, 2021 EEOC Charge at 6.

⁸ 26 U.S.C. § 7623(d)(1)(A); *supra* note 6.

⁹ The Board has consistently held that the issue of whether a settlement agreement has been breached is not a matter for the Board to determine. *Mawhinney v. Am. Airlines*, ARB No. 2014-0060, ALJ No. 2012-AIR-00017, slip op. at 4 (ARB Jan. 21, 2016); *Bricklen v. Great Lakes Chemical Corp.*, ARB No. 2005-0144, ALJ No. 2005-CAA-00008, slip op. at 2 (ARB Oct. 31, 2007); *Taylor v. Greyhound Lines*, ARB No. 2006-0137, ALJ No. 2006-STA-00019, slip op. at 4 (ARB Apr. 30, 2007). Rather, when the parties claim that there has been a breach of the settlement agreement, the proper remedy is found with a court of competent jurisdiction.

¹⁰ Complainant alleges the settlement terms were unfavorable in taxation and classification and thus were adverse actions. Because we affirm the ALJ’s protected activity conclusion, we do not reach the ALJ’s alternate conclusion that Complainant did not demonstrate a genuine issue of material fact that she suffered an adverse action under the TFA.

SO ORDERED.

THOMAS H. BURRELL
Administrative Appeals Judge

ELLIOT M. KAPLAN
Administrative Appeals Judge