

Vermont Superior Court
Caledonia Unit

**KATHERINE BAKER and
MING-LIEN LINSLEY,
Plaintiffs,**

and

**Vermont Human Rights Commission,
Intervenor-Plaintiff**

v.

**Civil Division
Docket No. 183-7-11 CACV**

**WILDFLOWER INN a/k/a DOR
ASSOCIATES LLP,
Defendant.**

**ANSWER AND AFFIRMATIVE DEFENSES TO
INTERVENOR'S COMPLAINT**

Defendant Wildflower Inn (hereinafter, "Wildflower"), by and through its undersigned counsel, hereby files its Answer and Affirmative Defenses to Complaint of Intervenor Vermont Human Rights Commission (hereinafter, the "Commission"), dated February 22, 2012, which this Court accepted for filing on April 11, 2012, as follows:

1. Wildflower has insufficient knowledge to admit or deny the allegations set out in this paragraph.
2. Wildflower has insufficient knowledge to admit or deny the allegations contained in this paragraph.
3. Wildflower denies that its trade name registered with the Vermont Secretary of State is under File Number 0126546. Wildflower admits the remaining allegations contained in this paragraph.

4. Wildflower admits the allegations contained in this paragraph.
5. Wildflower admits the allegations contained in this paragraph.
6. Wildflower admits the allegations contained in this paragraph.
7. Wildflower denies the allegations contained in this paragraph.
8. Wildflower admits that this Court has jurisdiction under Vt. Stat. Ann. tit. 9, § 4506 to redress alleged violations of the Fair Housing and Public Accommodations Act, but Wildflower denies that this Court has jurisdiction over all Plaintiffs' claims.
9. Wildflower admits that, for any claims over which this Court might have jurisdiction, venue is proper because Defendant is located in Caledonia County, Vermont. Wildflower denies the remaining allegations contained in this paragraph.
10. The allegations set out in this paragraph call for conclusions of law that do not require a response. To the extent that they require an answer, Wildflower denies those allegations.
11. The allegations set out in this paragraph call for conclusions of law that do not require a response. To the extent that they require an answer, Wildflower denies those allegations.
12. The allegations set out in this paragraph call for conclusions of law that do not require a response. To the extent that they require an answer, Wildflower denies those allegations.
13. The allegations set out in this paragraph call for conclusions of law that do not require a response. To the extent that they require an answer, Wildflower denies those allegations.
14. Wildflower objects to the Commission's attempt to incorporate by reference all allegations in one of Plaintiffs' superseded complaints. To the extent that the Commission may do this, Wildflower incorporates by reference its Answers to Plaintiffs' Second Amended Complaint as well as its responses in Paragraphs 15 – 31 of this Answer.



15. Wildflower denies the allegations set out in this paragraph.
16. Wildflower denies the allegations set out in this paragraph.
17. Wildflower denies the allegations set out in this paragraph.
18. Wildflower admits the allegations set out in this paragraph.
19. The allegations set out in this paragraph call for conclusions of law that do not require a response. To the extent that they require an answer, Wildflower denies those allegations.
20. Wildflower denies the allegations set out in this paragraph.
21. Wildflower reasserts and incorporates by reference all preceding paragraphs of this Answer.
22. Wildflower has insufficient knowledge to admit or deny the allegations set out in this paragraph.
23. Wildflower admits that this is an accurate quote from Vt. Stat. Ann. tit. 9, § 4501(a).
24. Wildflower admits the allegations contained in this paragraph.
25. Wildflower admits that this is an accurate quote from Vt. Stat. Ann. tit. 9, § 4502(a).
26. Wildflower denies the allegations contained in this paragraph.
27. Wildflower denies the allegations contained in this paragraph.
28. Wildflower admits that the Legislature created an exemption for hotels with five or fewer rooms and an exemption for religious organizations. The remaining allegations set out in this paragraph call for conclusions of law that do not require a response. To the extent that they require an answer, they are denied.
29. Wildflower admits that the Legislature created an exemption for hotels with five or fewer rooms. Wildflower denies that it discriminated against Plaintiffs on account of sexual orientation. The remaining allegations set out in this paragraph call for conclusions of



law that do not require a response. To the extent that they require an answer, they are denied.

30. Wildflower admits that it is a privately owned, for-profit business, but denies that it is a “multi-million-dollar business.” Wildflower admits that the Legislature created an exemption for religious organizations. The remaining allegations set out in this paragraph call for conclusions of law that do not require a response. To the extent that they require an answer, they are denied.

31. Wildflower denies the allegations contained in this paragraph.

Wherefore, the Commission is not entitled to any of the remedies sought in its request for relief. Wildflower thus respectfully requests that the Court declare that Wildflower did not engage in unlawful discrimination and dismiss with prejudice the Commission’s complaint in its entirety.

FIRST AFFIRMATIVE DEFENSE

The Commission’s claims are barred by the doctrines of collateral estoppel (issue preclusion) and res judicata (claim preclusion).

SECOND AFFIRMATIVE DEFENSE

The Commission does not have statutory authority to bring this action.

THIRD AFFIRMATIVE DEFENSE

The Commission lacks standing to assert its claims, and this Court lacks subject-matter jurisdiction over those claims.

FOURTH AFFIRMATIVE DEFENSE

The Commission has failed to state a claim upon which relief can be granted.



FIFTH AFFIRMATIVE DEFENSE

The wrongdoing alleged by the Commission resulted from the unauthorized acts of Wildflower's former employee Amalia (Molly) Harris.

SIXTH AFFIRMATIVE DEFENSE

Application of Vermont's Fair Housing and Public Accommodations Act under these circumstances violates Wildflower's and its owners' free-exercise rights under the Free Exercise Clause of the First Amendment to the United States Constitution.

SEVENTH AFFIRMATIVE DEFENSE

Application of Vermont's Fair Housing and Public Accommodations Act under these circumstances violates Wildflower's and its owners' free-exercise rights under Article 3 of the Vermont Constitution.

EIGHTH AFFIRMATIVE DEFENSE

Application of Vermont's Fair Housing and Public Accommodations Act under these circumstances violates Wildflower's and its owners' freedom of expression (as well as their freedom from compelled speech or expression) under the Free Speech Clause of the First Amendment to the United States Constitution.

NINTH AFFIRMATIVE DEFENSE

Application of Vermont's Fair Housing and Public Accommodations Act under these circumstances violates Wildflower's and its owners' freedom of expression (as well as their freedom from compelled speech or expression) under the Free Speech Clause of Article 13 of the Vermont Constitution.

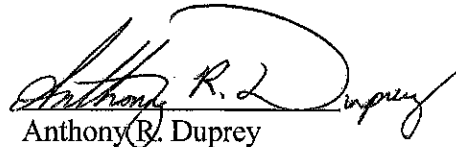
TENTH AFFIRMATIVE DEFENSE

Application of Vermont's Fair Housing and Public Accommodations Act under these circumstances violates Wildflower's and its owners' freedom of expressive association and freedom of association under the First Amendment to the United States Constitution.

ELEVENTH AFFIRMATIVE DEFENSE

Application of Vermont's Fair Housing and Public Accommodations Act under these circumstances violates Wildflower's and its owners' freedom of expressive association and freedom of association under Article 13 of the Vermont Constitution.

Dated at Middlebury, Vermont this 10 th day of May, 2012.



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