

FILED

IN THE UNITED STATES DISTRICT COURT
THE MIDDLE DISTRICT OF FLORIDA 1999 NOV 17 AM 10:23
OCALA DIVISION

CLERK OF DISTRICT COURT
OCALA, FLORIDA
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ANTHONY N. THACKER,)
)
Plaintiff,)
)
vs.)
)
SUMTER ELECRIC COOPERATIVE, INC.,)
)
Defendant.)
_____)

Case No. 99-320-Civ-OC-10A

ANSWER

Defendant Sumter Electric Cooperative, Inc. ("Defendant" or "Sumter Electric")
answers the Complaint in the captioned case as follows:

FIRST DEFENSE

Some or all of the Complaint fails to state a claim for which relief can be granted.

SECOND DEFENSE

To the extent that Plaintiff's claims are based on events alleged to have occurred
more than 300 days before the filing of his charge of discrimination, such claims are
time-barred.

THIRD DEFENSE

Some or all of Plaintiff's claims may be barred by his failure to comply with the
procedural prerequisites to suit.

FOURTH DEFENSE

Some or all of Plaintiff's claims are barred by the applicable statute(s) of
limitations.

FIFTH DEFENSE

Defendant has a policy that prohibits harassment, which it uniformly enforces. Defendant exercised reasonable care to prevent and promptly correct any harassing behavior, and Plaintiff unreasonably failed to avail himself of preventative and corrective opportunities provided by Defendant or to otherwise avoid harm.

SIXTH DEFENSE

To the extent that Plaintiff seeks to assert claims not reasonably related to the allegations set forth in his administrative charge, such claims are barred.

SEVENTH DEFENSE

In response to the separately numbered paragraphs of the Complaint, Defendant answers further as follows:

1.

Defendant admits only that Plaintiff purports to bring this action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* ("Title VII") and the Florida Civil Rights Act of 1992, 760.01 *et seq.*, Fla. Stat. ("FCRA"), but denies that it has committed any violation of law, and further denies the remaining allegations in Paragraph 1 of the Complaint.

2.

Defendant admits only that Plaintiff purports to seek the relief requested, but denies that Plaintiff is entitled to any such relief.

3.

Defendant admits only that venue is proper in this Court. Defendant denies that it has committed any violation of law, and further denies the remaining allegations in Paragraph 3 of the Complaint.

4.

Defendant admits that Plaintiff is male and resides in Florida. Defendant further admits that Plaintiff has attached to the Complaint as Exhibit A a copy of what purports to be a charge of discrimination filed with the Equal Employment Opportunity Commission (“EEOC”) and Florida Commission on Human Rights (“FCHR”) on or about January 14, 1998 (the “first charge”). The first charge of discrimination speaks for itself and is the best evidence of its contents. Defendant also admits that Plaintiff has attached to the Complaint as Exhibit B a copy of what purports to be a Notice of Right to sue dated August 9, 1999. Finally, Defendant admits that Plaintiff filed a second charge of discrimination with the EEOC and FCHR on or about January 7, 1999 (the “second charge”). Defendant is without sufficient knowledge or information to admit or deny the remaining allegations pertaining to the second charge of discrimination, and therefore denies those allegations. Defendant denies that Plaintiff alleged retaliation in the first charge of discrimination and denies that the EEOC assigned number 1D980223 to that charge. Defendant further denies the remaining allegations in Paragraph 4 of the Complaint.

5.

Defendant admits only that the Court has jurisdiction over this action, but denies the remaining allegations in Paragraph 5 of the Complaint.

6.

Defendant admits only that it hired Plaintiff in 1984 and that it has continued to employ him up through the present. Defendant denies the remaining allegations in Paragraph 6 of the Complaint.

7.

Defendant admits only that it has a facility located at 4872 S.W. 60th Avenue, Marion County, Ocala, Florida 34474. Defendant denies that it has committed any violation of law at that or any other location, and further denies the remaining allegations in Paragraph 7 of the Complaint.

8.

Defendant admits only that Plaintiff seeks the relief requested, but denies that Plaintiff is entitled to any relief.

9.

Defendant admits only that it is a Florida corporation, that it operates a business in Marion County, Ocala, Florida, and that it employs more than fifteen persons. Defendant denies the remaining allegations in Paragraph 9 of the Complaint.

10.

Defendant admits only that Plaintiff applied for an Ocala Warehouse Coordinator job and admits that it hired Patty Embach for the position, and that Ms. Embach was an

external candidate. Defendant denies the remaining allegations in Paragraph 10 of the Complaint.

11.

Defendant denies the allegations in Paragraph 11 of the Complaint.

12.

Defendant denies the allegations in Paragraph 12 of the Complaint.

13.

Defendant denies the allegations in Paragraph 13 of the Complaint.

14.

Defendant restates its previous answers to Paragraphs 1 through 13 of the Complaint.

15.

Defendant denies the allegations in Paragraph 15 of the Complaint.

16.

Defendant denies the allegations in Paragraph 16 of the Complaint.

17.

Defendant restates its previous answers to Paragraphs 1 through 16 of the Complaint.

18.

Defendant denies the allegations in Paragraph 18 of the Complaint.

19.

Defendant denies the allegations in Paragraph 19 of the Complaint.

20.

Defendant restates its previous answers to Paragraphs 1 through 19 of the Complaint.

21.

Paragraph 21 of the Complaint is a prayer for relief, contains no factual allegations, and therefore requires no response from Defendant. To the extent a response is required, Defendant denies the allegations in Paragraph 21 of the Complaint.

22.

Paragraph 22 of the Complaint is a prayer for relief, contains no factual allegations, and therefore requires no response from Defendant.

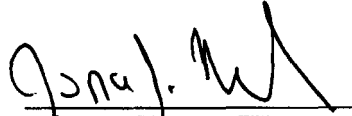
23.

Defendant denies each and every allegation contained in the Complaint, express or implied, that is not expressly and unequivocally admitted in this Answer.

Wherefore, Defendant respectfully requests that:

- 1. Plaintiff takes nothing by his Complaint, and that the Complaint be dismissed in its entirety;**
- 2. Judgment be entered in favor of Defendant;**
- 3. The Court award Defendant its costs of litigation, including reasonable attorneys' fees;**
- 4. The Court grant such other relief as is just and proper.**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John F. Wymer, III", written over a horizontal line.

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Attorneys for Defendant

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THE MIDDLE DISTRICT OF FLORIDA
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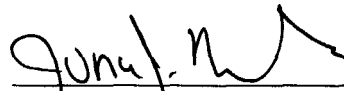
ANTHONY N. THACKER,)	
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Plaintiff,)	
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vs.)	Case No. 99-320-Civ-OC-10A
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SUMTER ELECRIC COOPERATIVE, INC.,)	
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Defendant.)	
_____)	

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel of record in the foregoing matter with a copy of **DEFENDANT’S ANSWER** by depositing a copy of same in the United States Mail in a properly addressed envelope with adequate postage thereon as follows:

Pamela Bounds Olsen
Bogin, Munns & Munns
2215 S.E. Fort King St.
Suite A
Ocala, Florida 34471

This 16th day of November, 1999.



Jona J. Miller
Attorney for Defendant