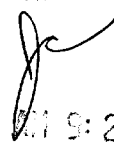


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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA, FLORIDA

TINA LAWLER,)
)
 Plaintiff,)
 v.)
)
 SUMTER ELECTRIC COOPERATIVE, INC.,)
)
 Defendant.)

CASE NO.: 99-65-CIV-OC-10C

**DEFENDANT’S MOTION TO REPLY TO PLAINTIFF’S RESPONSE TO
DEFENDANT’S MOTION TO PARTIALLY DISMISS, OR,
ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT**

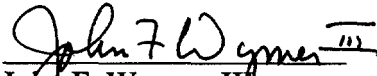
Defendant Sumter Electric Cooperative, Inc. (“Defendant” or “Sumter”) moves this Court to grant its request to file a two-page Reply brief in support of its Motion to Partially Dismiss, Or Alternatively, Motion for Partial Summary Judgment. Because Plaintiff’s Response only clouded the straightforward issue presented by Defendant’s Motion, Defendant believes that a short Reply might assist the Court in determining whether dismissal of Plaintiff’s sexual/gender harassment claim is appropriate.

Defendant has filed its Reply brief contemporaneously with this Motion. Counsel for Defendant has left a message for counsel for Plaintiff to determine whether he consents to the filing of Defendant’s Reply, but was unable to reach him.

A proposed Order is attached for the Court’s consideration.

[signatures on next page]

Respectfully submitted,



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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

TINA LAWLER,)
)
 Plaintiff,)
 v.)
) CASE NO.: 99-65-CIV-OC-10C
)
 SUMTER ELECTRIC COOPERATIVE, INC.,)
)
 Defendant.)
 _____)

ORDER GRANTING DEFENDANT'S MOTION TO REPLY
TO PLAINTIFF'S RESPONSE TO DEEFENDANT'S MOTION TO
PARTIALLY DISMISS, OR ALTERNATIVELY, MOTION FOR PARTIAL
SUMMARY JUDGMENT

Having considered Defendant's Motion to Reply to Plaintiff's Response to
Defendant's Motion to Partially Dismiss, Or Alternatively, Motion for Partial Summary
Judgment, and for good cause shown,

IT IS ORDERED that Defendant shall be permitted to file a Reply brief.

DONE AND ORDERED this ____ day of _____, 1999.

United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

TINA LAWLER,)	
)	
Plaintiff,)	
v.)	
)	CASE NO: 99-65-CIV-OC-10C
)	
SUMTER ELECTRIC COOPERATIVE, INC.,)	
)	
Defendant.)	


**DEFENDANT’S REPLY IN SUPPORT OF ITS MOTION TO PARTIALLY
DISMISS, OR, ALTERNATIVELY,
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiff Tina Lawler (“Plaintiff”) has asked this Court to deny Defendant’s request to dismiss her sexual/gender harassment claim under Title VII and the FCRA. In support of her request, Plaintiff relies solely on a “continuing violation” theory. Specifically, she states that her gender harassment claim is not time-barred because the “harassment” continued into 1997. Plaintiff, however, has confused a sexual harassment claim with a retaliation claim.

Defendant has not asked the Court to dismiss Plaintiff’s retaliation claim; the parties will conduct full discovery on that issue. However, the *only* person who allegedly sexually harassed Plaintiff was Jon Perry, and it is undisputed that Sumter discharged Perry on August 2, 1993, and he died on May 6, 1995. Wallace Aff. ¶¶ 4, 5. That Mr. Perry could have “continued” to harass Plaintiff after his demise in 1995 seems unlikely. In fact, Plaintiff concedes that any alleged sexual harassment ended on or before July 1993. See Affidavit of Tina Lawler filed in Support of Plaintiff’s Response. Plaintiff, however, did not file a charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”) until September 1997.

Simply put, Perry did not continue to harass and/or discriminate against Plaintiff into the limitations period because the alleged sexual harassment ended *more than four years* before Plaintiff filed a charge with the EEOC. See Johnson v. Woodruff, 28 F. Supp. 2d 1248 (M.D.Fla. 1998) (to revive an otherwise time-barred claim, the violation must be “part of a pattern of continuing practice out of which the timely-filed incident arose”); Paldano v. Althin Medical, Inc., 974 F. Supp. 1441 (S.D. Fla. 1996) (to demonstrate a continuing violation, the plaintiff must first prove that at least one discriminatory act occurred within the limitations period). Sexual/gender harassment (which is time-barred) and retaliation are completely different concepts. Because Plaintiff’s sexual/gender harassment claim is untimely under Title VII and the FCRA, this Court should grant Defendant’s Motion to Partially Dismiss, or Alternatively, Motion for Partial Summary Judgment.

Respectfully submitted,



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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

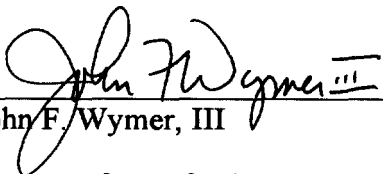
TINA LAWLER,)	
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)	CASE NO.: 99-65-CIV-OC-10C
)	
SUMTER ELECTRIC COOPERATIVE, INC.,)	
)	
Defendant.)	
_____)	

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 MOTION TO REPLY TO PLAINTIFF’S RESPONSE TO DEFENDANT’S PARTIAL MOTION TO DISMISS, OR ALTERNATIVELY, PARTIAL MOTION FOR SUMMARY JUDGEMENT, AND DEFENDANT’S REPLY IN SUPPORT OF ITS MOTION** in a properly addressed envelope with adequate postage thereon as follows:

James P. Tarquin, Esq.
44 S.E. 1st Avenue, Suite 306
Ocala, Florida
34471

This 10th day of May, 1999.



John F. Wymer, III
Attorney for Defendant