

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

NEW ENGLAND SERUM COMPANY, INC.,

Defendant.

Civil Action No. 01-11672-JLT

**FIRST AMENDED ANSWER TO COMPLAINT**

The Defendant, New England Serum Company, Inc. ("New England Serum") submits the following as its First Amended Answer to the Complaint filed by the Equal Employment Opportunity Commission (the "Plaintiff").

**Nature of The Action**

This paragraph purports to describe the nature of the claims and the relief requested and accordingly no response is required. To the extent that this paragraph contains allegations of fact to which an answer is required, New England Serum denies those allegations.

**Jurisdiction and Venue**

1. Admitted.
2. New England Serum denies that it committed unlawful employment practices but admits that it is subject to the jurisdiction of the United States District Court of Massachusetts.

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**PARTIES**

3. New England Serum is without knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

4. New England Serum is without knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

5. To the extent that this paragraph states a legal conclusion, no response is required. Further answering, New England Serum is without knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

**STATEMENT OF CLAIM**

6. New England Serum is without knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

7. New England Serum denies each and every allegation contained in the first sentence of this paragraph:

- a. New England Serum admits that Gil Santiago was a supervisor at New England Serum's distribution center but denies each and every remaining allegation contained in subparagraph (a).
- b. New England Serum admits that Paul McDonald was a manager at the distribution center but denies each and every remaining allegation contained in subparagraph (b).
- c. New England Serum is without knowledge or information sufficient to admit or deny the allegation relating to Gil Santiago's national origin and denies each and every remaining allegation contained in subparagraph (c).

- d. New England Serum denies each and every allegation contained in subparagraph (d).
  - e. New England Serum denies each and every allegation contained in subparagraph (e).
  - f. New England Serum denies each and every allegation contained in subparagraph (f).
  - g. New England Serum denies each and every allegation contained in subparagraph (g).
- 8. New England Serum denies each and every allegation contained in this paragraph.
  - 9. New England Serum denies each and every allegation contained in this paragraph.
  - 10. New England Serum denies each and every allegation contained in this paragraph.

**Affirmative Defenses**

- 1. The Complaint should be dismissed as it fails to state a claim upon which relief may be granted.
- 2. The Complaint should be dismissed as Plaintiff has failed to join a necessary party or parties.
- 3. The Plaintiff's claims should be dismissed in whole, or in part, on the grounds of laches.

4. The Plaintiff's claims should be dismissed in whole, or in part, on the grounds of unclean hands.
5. The Plaintiff's claims should be dismissed in whole, or in part, on the grounds of statute of limitations.
6. The Plaintiff's claims should be dismissed in whole, or in part, due to the Charging Parties failure to lodge any complaint with New England Serum of the alleged discrimination and/or harassment.
7. The Plaintiff's claims should be dismissed in whole, or in part, because New England Serum exercised reasonable care to prevent and correct promptly any sexually harassing behavior by New England Serum employees, and the Charging Parties unreasonably failed to avail themselves of any preventive or corrective opportunities provided by New England Serum or to otherwise avoid harm.

WHEREFORE, New England Serum respectfully requests that the Complaint be dismissed.

Respectfully submitted.

NEW ENGLAND SERUM COMPANY,  
INC., Defendant,

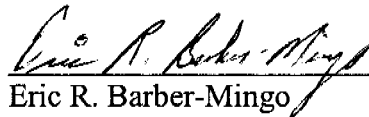
By its Attorneys,



Christopher P. Litterio (BBO #551098)  
Eric R. Barber-Mingo (BBO #564031)  
RUBERTO, ISRAEL & WEINER, P.C.  
100 North Washington Street  
Boston, Massachusetts 02114  
(617) 742-4200

**CERTIFICATE OF SERVICE**

I, Eric R. Barber-Mingo, Esquire, hereby certify that I have on this date caused to be served, via **first class mail**, the above First Amended Answer to Complaint upon the attorney for the Plaintiff, Markus L. Penzel, Esq., Equal Employment Opportunity Commission, John F. Kennedy Federal Bldg., Room 475, Boston, MA 02203-0506.

  
Eric R. Barber-Mingo

Dated: August 19, 2002

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