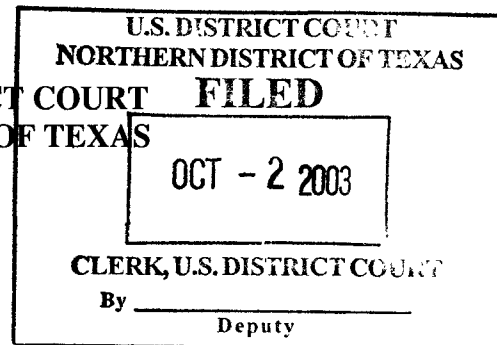


ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



EQUAL EMPLOYMENT OPPORTUNITY §  
COMMISSION §

Plaintiff, §

vs. §

BLEDSON DODGE, LLC, and §  
AUTONATION, INC. §

Defendant. §

Civil Action No. 3-02cv1373-G

**DEFENDANTS' SECOND AMENDED ANSWER AND AFFIRMATIVE DEFENSES  
TO PLAINTIFF'S SECOND AMENDED COMPLAINT**

COME NOW, BLEDSON DODGE, L.L.C. and AUTONATION, INC., Defendants in the above-entitled and numbered cause, and file this Second Amended Answer and Affirmative Defenses to the Second Amended Complaint ("the Complaint") filed by the Equal Employment Opportunity Commission (the "Commission"), and in support thereof, would respectfully show the Court as follows:

**I.  
DEFENDANTS' ANSWER**

Defendants deny that the Charging Parties, Anthony Barnett and Barron Jackson, were subjected to a hostile work environment, as alleged in the Complaint. Defendants further deny that they failed to promote Mr. Barnett or Mr. Jackson, or terminated them, because of their race, African-American. In addition, Defendants deny that they unlawfully terminated Mr. Barnett or Mr. Jackson in retaliation for opposing employment practices believed to be unlawful and/or for participating in proceedings under Title VII, as alleged in the Complaint.

Defendants' Answer is subtitled and numbered to correspond to Plaintiff's Second Amended

Complaint.

### **JURISDICTION AND VENUE**

1. The allegations in Paragraph 1 require no response, although Defendants admit that jurisdiction is proper in this Court.

2. Defendants admit that the claims of Plaintiff and the Charging Parties fall under the jurisdiction of this Court. Defendants deny that they committed any illegal employment practices.

### **PARTIES**

3. The allegations in Paragraph 3 require no response.

4. Defendants admit the allegations set forth in Paragraph 4, except that they deny that Bledsoe Dodge, L.L.C. is now doing business in the State of Texas.

5. Defendants admit there is a corporate relationship between the two Defendants, although they deny that AutoNation, Inc. is the “corporate parent” of Bledsoe Dodge, L.L.C. Defendants deny that AutoNation, Inc. is jointly and severally liable for any liability on the behalf of Bledsoe Dodge, L.L.C., if any, under the theories of “joint employer,” “integrated enterprise,” and/or “alter ego.” Defendants further deny that AutoNation, Inc. is a proper Defendant to this action.

6. Defendants admit the allegations set forth in Paragraph 6, except that Defendants deny that AutoNation, Inc. is now or has ever been the employer, as defined by Title VII, of the Charging Parties. Defendants also deny that Defendant Bledsoe Dodge, L.L.C. has continuously been an employer, as this Defendant is now defunct.

### **STATEMENT OF CLAIMS**

7. Defendants admit that the Charging Parties each filed a charge with the Commission

which alleged violations of Title VII by Defendants. Defendants can neither admit nor deny that all conditions precedent to the institution of this lawsuit have been fulfilled because Defendants are without knowledge or information sufficient to form a belief as to the truth of this allegation.

8. Defendants deny the allegations set forth in Paragraph 8.
9. Defendants deny the allegations set forth in Paragraph 9.
10. Defendants deny the allegations set forth in Paragraph 10.
11. Defendants deny the allegations set forth in Paragraph 11.

### **PRAYER FOR RELIEF**

Defendants deny that Plaintiff is entitled to any of the relief requested in its Prayer for Relief, Paragraphs A-H, because Defendants deny that they engaged in any unlawful acts which would render them liable for or subject it to any of the relief requested by Plaintiff. Defendants further deny that the Charging Parties are entitled to “rightful place reinstatement,” or any other such equitable relief, because the Charging Parties’ employer, Bledsoe Dodge, L.L.C. is no longer in existence and the positions once held by the Charging Parties have been eliminated.

### **II. DEFENDANTS’ AFFIRMATIVE DEFENSES**

Defendants affirmatively assert the following defenses to Plaintiff’s causes of action:

1. The Charging Parties unreasonably failed to take advantage of the preventive or corrective opportunities provided by Defendants, or to otherwise avoid harm with regard to the acts of discrimination alleged by Plaintiff.
2. Defendants exercised reasonable care to prevent and/or correct promptly any acts of discrimination alleged by Plaintiff.
3. Defendants request that any damages awarded to Plaintiff and/or the Charging Parties

be limited in accordance with 42 U.S.C. § 1981a(b)(3).

4. Defendants deny that the Charging Parties are entitled to “rightful place reinstatement” or any other equitable relief, particularly since the Charging Parties’ employer, Bledsoe Dodge, L.L.C., is now defunct and the Charging Parties’ job positions were eliminated.

5. Defendants deny that any acts alleged by Plaintiff to have been discriminatory were committed, if at all, intentionally, wilfully or maliciously.

6. The Charging Parties failed to mitigate any damages they may have suffered, if in fact they suffered any such damages.

7. Defendants assert the right to raise additional defenses that become apparent throughout the development of this cause.

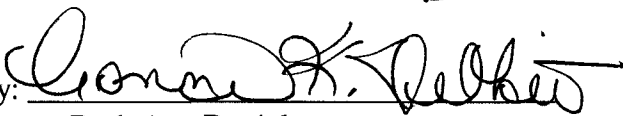
**III.**  
**DEFENDANTS’ PRAYER FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request the following relief:

- 1) That the Commission receive a take nothing judgment;
- 2) Alternatively, that any damages awarded to the Commission and/or the Charging Parties be limited in accordance with the defenses asserted by Defendants and the applicable statutory remedies; and
- 3) Any relief in law or equity to which Defendants are justly entitled.

Respectfully submitted,

**GIBSON, MCCLURE, WALLACE & DANIELS, L.L.P.**

By:   
Ruth Ann Daniels

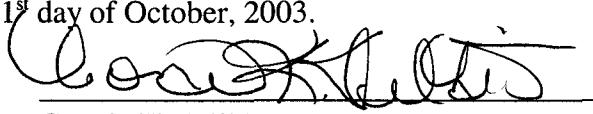
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ATTORNEYS FOR DEFENDANTS,  
BLEDSOE DODGE, LLC and  
AUTONATION, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing instrument has been forwarded via certified mail, return receipt requested to counsel for the Commission, Ronetta J. Francis, Equal Employment Opportunity Commission, Dallas District Office, 207 South Houston, 3<sup>rd</sup> Floor, Dallas, Texas 75202 on this the 1<sup>st</sup> day of October, 2003.

  
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Connie K. Wilhite