

HONORABLE MARSHA PECHMAN



03-CV-02768-ANS

FILED
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MR
AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

vs.

ELDORADO STONE, LLC,

Defendant.

CIVIL ACTION No. CV03 2768-P

ANSWER TO COMPLAINT

NOW COMES DEFENDANT ELDORADO STONE, LLC ("Defendant"), by and
through its attorneys, Dorsey & Whitney LLP, to answer Plaintiff's Complaint as follows:

I. JURISDICTION AND VENUE

1. This paragraph contains a legal conclusion to which no response is required.
2. Defendant admits the allegations in this paragraph.

II. PARTIES

3. This paragraph contains a legal conclusion to which no response is required.
4. Defendant admits that it is a corporation doing business in the State of

1 Washington and has at least 15 employees. Defendant is without sufficient information to form a
2 belief as to the remaining allegations in this paragraph and on that basis denies them.

3 5. This paragraph contains a legal conclusion to which no response is required.

4 **III. STATEMENT OF CLAIMS**

5 6. Defendant admits that each of the individuals listed filed a charge of
6 discrimination under Title VII more than 30 days prior to the institution of this proceeding. The
7 remaining allegations in this paragraph are legal conclusions to which no response is required.

8 7. Defendant denies the allegations in this paragraph.

9 8. Defendant denies the allegations in this paragraph.

10 9. Defendant denies the allegations in this paragraph.

11 10. Defendant denies the allegations in this paragraph.

12 **IV. DEFENSES AND AFFIRMATIVE DEFENSES**

13 AS AND FOR A SEPARATE DEFENSE OR AFFIRMATIVE DEFENSE TO EACH
14 AND EVERY CAUSE OF ACTION SET FORTH IN THE COMPLAINT, the Defendants
15 allege:

16 11. Plaintiff's (which term when used herein refers to the Plaintiff and the individual
17 claimants unless otherwise specified) claims are barred by the equitable doctrines of laches,
18 estoppel, and acquiescence.

19 12. Plaintiff is estopped by reason of their own conduct, acts or omissions from
20 recovering against Defendant on any purported claim for relief contained herein.

21 13. Defendant at all times relevant hereto exercised reasonable care to prevent and/or
22 identify any form of unlawful discrimination, harassment and/or retaliation; that if any unlawful
23 discrimination, harassment and/or retaliation did exist, Defendant exercised reasonable care to
24 promptly correct any form of unlawful discrimination and/or retaliation; and that Plaintiff
25 unreasonably failed to take advantage of any preventative or corrective opportunities provided by

1 the employer or to avoid harm otherwise.

2 14. If it is determined that Plaintiff has certain rights under the Company's benefit
3 plan, such claims are pre-empted by ERISA.

4 15. Plaintiff's claims are barred by the applicable statute of limitations.

5 16. Plaintiff has failed to exhaust administrative remedies.

6 17. The alleged wrongdoing, if any, occurred outside the course and scope of any of
7 Defendant's employees' employment with Defendant.

8 18. Plaintiff has failed to mitigate damages, if any, including by, without limitation,
9 refusing offers of reinstatement (for claimants Ms. Weber, Mr. Prouty, Ms. Cortez, and Mr.
10 Johnson).

11 V. RESERVATION

12 Defendant reserves the right to add defenses and affirmative defenses, to add
13 counterclaims and third-party defendants, and to argue legal theories in addition to or in lieu of
14 those specifically identified herein, as the facts in this matter may warrant, including without
15 limitation additional or further facts hereafter disclosed through discovery.

16 VI. PRAYER FOR RELIEF

17 Defendant prays for the following relief:

18 A. That the Complaint be dismissed with prejudice and without an award of
19 damages, costs, or fees of any kind to Plaintiff;

20 B. That Defendant be awarded reasonable attorneys' fees and costs; and

21 C. That Defendant be awarded such other relief as this Court deems appropriate, just,
22 and equitable.

1 DATED this 1st day of December, 2003.

2 DORSEY & WHITNEY LLP

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4 

5 GREG A. HENDERSHOTT WSBA #27838

6 MICHAEL W. DROKE, WSBA #25972

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9 Facsimile: (206) 903-8820

10 Attorneys for Defendant

11 ELDORADO STONE, L.L.C.

PROOF OF SERVICE

I served the within **ANSWER TO COMPLAINT** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope, addressed as follows:

A. Luis Lucero, Jr., Regional Attorney via Hand Delivery
Kathryn Olson, Supervisory Trial Attorney
Carmen Flores, Senior Trial Attorney
Eric S. Dreiband, General Counsel
James L. Lee, Deputy General Counsel
Gwendolyn Young Reams, Associate General Counsel
U.S. Equal Employment Opportunity Commission
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Seattle, WA 98104

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Executed on December 1, 2003, at Seattle, WA.

I declare that the statements above are true to the best of my information, knowledge, and belief.

Date: December 1, 2003

Signature: 
Name: Veronica Cho