

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

FILED
U.S. DISTRICT COURT
N.D. OF ALABAMA
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EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

Vs.)

R&J ENTERPRISES, d/b/a International)
House of Pancakes, et al.,)

Defendants.)

Civil Action Number:
CV-02-C-2314-S

AMENDED ANSWER OF R&J ENTERPRISES, d/b/a IHOP and AJM, Inc.

Defendant R&J Enterprises, d/b/a IHOP and AJM, Inc. amends its answer to the Plaintiff's complaint to read as follows.

NATURE OF THE ACTION

1. R&J Enterprises, d/b/a IHOP and AJM, Inc. denies the allegations of Paragraph 1 and demands proof thereof.

JURISDICTION AND VENUE

2. R&J Enterprises, d/b/a IHOP and AJM, Inc. admits the Court has the jurisdiction over the Plaintiff's claims, but denies the substantive allegations of the Plaintiff's claims.
3. R&J Enterprises, d/b/a IHOP and AJM, Inc. admits the Court has jurisdiction over the Plaintiff's claims, but denies the substantive allegations of the Plaintiff's claims.

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PARTIES

4. R&J Enterprises, d/b/a IHOP and AJM, Inc. denies that EEOC has authority to bring this action against it. To the extent this allegation applies to the other Defendants, R&J Enterprises, d/b/a IHOP and AJM, Inc. is without knowledge or information sufficient to form a belief as to the truth of this averment. Therefore, it is denied.
5. R&J Enterprises, d/b/a IHOP and AJM, Inc. is without knowledge or information sufficient to form a belief as to the truth of this averment. Therefore, it is denied.
6. R&J Enterprises, d/b/a IHOP and AJM, Inc. is without knowledge or information sufficient to form a belief as to the truth of this averment. Therefore, it is denied.
7. R&J Enterprises, d/b/a IHOP and AJM, Inc. admits it has more than fifteen employees and does business in Alabama through its subsidiary, Summit Service, Inc. All other allegations are denied.
8. R&J Enterprises, d/b/a IHOP and AJM, Inc. objects to the Plaintiff's use of the word "collective" in this allegation and denies it is an employer "collective" with the other Defendants. R&J Enterprises, d/b/a IHOP and AJM, Inc. admits it is engaged in an industry affecting commerce. With respect to the other Defendants, R&J Enterprises, d/b/a IHOP and AJM, Inc. is without knowledge or information sufficient to form a belief as to the truth of this averment.
9. R&J Enterprises, d/b/a IHOP and AJM, Inc. denies the allegations of Paragraph 9 and demands proof thereof.

STATEMENT OF CLAIMS

10. R&J Enterprises, d/b/a IHOP and AJM, Inc. is without knowledge or information sufficient to form a belief as to the truth of this averment. Therefore, it is denied.
11. R&J Enterprises, d/b/a IHOP and AJM, Inc. is without knowledge or information sufficient to form a belief as to the truth of this averment. Therefore, it is denied.
12. R&J Enterprises, d/b/a IHOP and AJM, Inc. is without knowledge or information sufficient to form a belief as to the truth of this averment. Therefore, it is denied.
13. R&J Enterprises, d/b/a IHOP and AJM, Inc. is without knowledge or information sufficient to form a belief as to the truth of this averment. Therefore, it is denied.
14. R&J Enterprises, d/b/a IHOP and AJM, Inc. denies the allegations of Paragraph 14 and demands proof thereof.
15. R&J Enterprises, d/b/a IHOP and AJM, Inc. denies the allegations of Paragraph 15 and demands proof thereof.
16. R&J Enterprises, d/b/a IHOP and AJM, Inc. denies the allegations of Paragraph 16 and demands proof thereof.
17. R&J Enterprises, d/b/a IHOP and AJM, Inc. denies the allegations of Paragraph 17 and demands proof thereof.
18. R&J Enterprises, d/b/a IHOP and AJM, Inc. denies the allegations of Paragraph 18 and demands proof thereof.

19. R&J Enterprises, d/b/a IHOP and AJM, Inc. denies the allegations of Paragraph 19 and demands proof thereof.

FIRST DEFENSE

R&J Enterprises, d/b/a IHOP and AJM, Inc. pleads failure to exhaust administrative remedies.

SECOND DEFENSE

R&J Enterprises, d/b/a IHOP and AJM, Inc. pleads the EEOC failed to comply with 42 U.S.C. §2000e-5(b) in that it failed to give R&J Enterprises, d/b/a IHOP and AJM, Inc. timely notice of the charge, failed to properly investigate and failed to engage in good faith efforts at cancellation. See Equal Employment Opportunity Commission V. American Nat'l Bank, 652 F.2d 1766 (4th Cir. 1981), rehearing denied 680 F.2d 965, cert. denied 459 U.S. 923.

THIRD DEFENSE

R&J Enterprises, d/b/a IHOP and AJM, Inc. pleads the charging parties and the EEOC failed to comply with the statutory prerequisites of Title VII before suit was filed.

FOURTH DEFENSE

R&J Enterprises, d/b/a IHOP and AJM, Inc. pleads it promptly took such measure as were within its control when it learned of the complaints against the manager.

FIFTH DEFENSE

R&J Enterprises, d/b/a IHOP and AJM, Inc. pleads it exercised reasonable care to prevent and correct promptly any sexually harassing behavior, and the employees at issue failed to take advantage of any preventive or corrective opportunities provided by R&J

Enterprises, d/b/a IHOP and AJM, Inc. or to avoid harm otherwise. See Faragher V. City of Boca Raton, 524 U.S. 775 (1998).

SIXTH DEFENSE

Plaintiff is not entitled to liquidated damages under the allegations of this Complaint.

SEVENTH DEFENSE

This Defendant pleads the doctrines of estoppel, waiver, and laches.

EIGHTH DEFENSE

Plaintiff's claims are barred by the principles of settlement and release and accord and satisfaction.

NINTH DEFENSE

Plaintiff's claims are barred to the extent that Plaintiffs failed to mitigate damages, the entitlement to which is expressly denied.

TENTH DEFENSE

Plaintiff cannot prove any illegal or hostile sexual harassment or unlawful practices or conduct by either Defendant; alternatively, even if Plaintiff could prove illegal practices or conduct by either Defendant, which Plaintiff cannot, either Defendant would have had to make the same decisions and taken the same actions to protect the rights of the other employees.

ELEVENTH DEFENSE

Plaintiff's claims for damages are limited, in whole or in part, by statute.

TWELFTH DEFENSE

Plaintiff's claims, or some of them, are, or may be, barred by the statute of limitations.

THIRTEENTH DEFENSE

This Defendant acted in good faith and has reasonable grounds for believing that its action did not violate the EEOC.

FOURTEENTH DEFENSE

R&J Enterprises, d/b/a IHOP and AJM, Inc. pleads failure to exhaust administrative remedies.

FIFTEENTH DEFENSE

R&J Enterprises, d/b/a IHOP and AJM, Inc. pleads the EEOC failed to comply with 42 U.S.C. §2000e-5(b) in that it failed to give R&J Enterprises, d/b/a IHOP and AJM, Inc. timely notice of the charge, failed to properly investigate and failed to engage in good faith efforts at conciliation. See Equal Employment Opportunity Commission Vs. American Nat'l Bank, 652 F.2d 1766 (4th Cir. 1981), rehearing denied 680 F.2d, cert. denied 459 U.S. 923.

SIXTEENTH DEFENSE

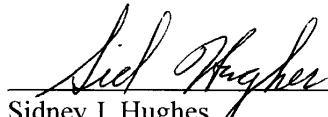
R&J Enterprises, d/b/a IHOP and AJM, Inc. pleads the charging parties and the EEOC failed to comply with the statutory prerequisites of Title VII before suit was filed.

SEVENTEENTH DEFENSE

R&J Enterprises, d/b/a IHOP and AJM, Inc. pleads it promptly took such measures as were within its control when it learned of the complaints against Ken Horne.

EIGHTEENTH DEFENSE

R&J Enterprises, d/b/a IHOP and AJM, Inc. pleads it exercised reasonable care to prevent and correct promptly any sexually harassing behavior, and the employees at issue failed to take advantage of any preventive or corrective opportunities provided by R&J Enterprises, d/b/a IHOP and AJM, Inc. or to avoid harm otherwise. See Faragher Vs. City of Boca Raton, 524 U.S. 775 (1998).



Sidney J. Hughes,
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Inc.
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CERTIFICATE OF SERVICE

I, Sidney J. Hughes, hereby certify that on this 30th day of April, 2003, I mailed a copy of this document to the following person(s) with postage prepaid:

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Mildred Byrd
Naomi Hilton Archer
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Sidney J. Hughes