

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

ED
03 APR 22 PM 2:06

U.S. DISTRICT COURT
N.D. OF ALABAMA

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
Plaintiff,)
v.) Civil Action No. CV-03-RRA-0502-J
RPH MANAGEMENT, INC., d/b/a)
McDONALD'S,)
an Alabama Corporation,)
Defendant.)

ANSWER

The defendant RPH Management, Inc. ("RPH") answers the plaintiff's complaint as follows:

I. INTRODUCTION

RPH admits that the plaintiff is attempting in this action to allege violations of Title I of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12111 et seq. and Title I of the Civil Rights Act of 1991. Except as expressly admitted, RPH denies this paragraph.

II. JURISDICTION

1. Denied.

2. RPH denies that any employment policy or practice engaged in with respect to Ms. Robichaud was unlawful.

III. PARTIES

3. Admitted.

4. Admitted.

5

RPH would have taken the same actions regardless of any alleged unlawful motive.

FOURTH DEFENSE

The plaintiff's claims are barred to the extent that Robichaud failed to mitigate her alleged damages, if any.

FIFTH DEFENSE

RPH acted in good faith with reasonable grounds for believing that it was not in violation of any federal or state law.

SIXTH DEFENSE

To the extent that the plaintiff has "unclean hands," its claims for equitable relief are barred.

SEVENTH DEFENSE

The complaint, in part, fails to state a claim upon which relief can be granted.

EIGHTH DEFENSE

The plaintiff's claims, in whole or in part, are barred by Robichaud's acquiescence, consent, waiver and/or estoppel.

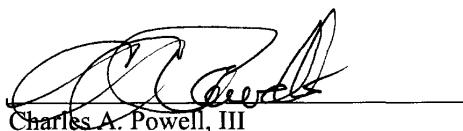
NINTH DEFENSE

The plaintiff's claims, in whole or in part, are barred by the applicable statute of limitations.

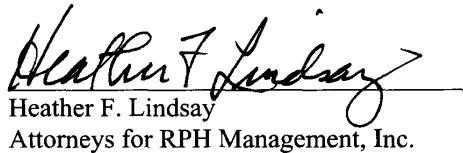
TENTH DEFENSE

The plaintiff's claims of Robichaud's alleged disability are barred because they are predicated on laws that are void for vagueness in violation of the Fifth Amendment to the United States Constitution.

ELEVENTH DEFENSE



Charles A. Powell, III



Heather F. Lindsay

Attorneys for RPH Management, Inc.

OF COUNSEL:

**JOHNSTON BARTON PROCTOR
& POWELL LLP**
2900 AmSouth/Harbert Plaza
1901 Sixth Avenue North
Birmingham, Alabama 35203-2618
Telephone: (205) 458-9400
Facsimile: (205) 458-9500

CERTIFICATE OF SERVICE

I hereby certify that I have served the above and foregoing by placing a copy of the same in the United States Mail, properly addressed and postage prepaid, on this the 22 day of April, 2003, upon the following:

Charles E. Guerrier
Prisca M. DeLeonardo
Mason D. Barrett
Equal Employment Opportunity Commission
Ridge Park Place
1130 22nd Street, South, Suite 2000
Birmingham, Alabama 35205-2881



Of Counsel