

ORIGINAL

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

JUL 16 9 37 AM '99
CLERK *D. J. [illegible]*
SO. DIST. OF GA.

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

CITY OF ALMA, GEORGIA; AND)
BACON COUNTY, GEORGIA,)

Defendants.)

Civil Action No.
CV-599-68-WTM

ANSWER OF DEFENDANT CITY OF ALMA

COMES NOW, Defendant City of Alma, Georgia, in the above-styled action and, pursuant to Rule 12 of the Federal Rules of Civil Procedure, files its Answer to Plaintiff's Complaint.

First Defense

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

Second Defense

Plaintiff's claims are barred, in whole or in part, by the doctrine(s) of laches, unclean hands, estoppel, avoidable consequences and/or after-acquired evidence.

Third Defense

Any action taken by Defendant City of Alma regarding any female who applied for or inquired about a position with the Alma-Bacon County Fire and Emergency Medical Services was for legitimate, nondiscriminatory reasons and, as such, did not violate any legal right possessed by any female. In the alternative, even if a female's sex played a motivating part in

any employment decision and/or action at issue here, Defendant City of Alma would have made the same decision and/or taken the same action for legitimate, non-discriminatory reasons.

Fourth Defense

Defendant City of Alma has neither intentionally nor willfully violated Plaintiff's rights in any manner or acted maliciously or negligently with respect to any female who applied for or inquired about employment with the Alma-Bacon County Fire and Emergency Medical Services, and at no time has Defendant City of Alma acted with any intent to injure any female who applied for or inquired about employment with the Alma-Bacon County Fire and Emergency Medical Services. Defendant City of Alma has not acted with malice or reckless indifference in any respect to any female who applied for or inquired about employment with the Alma-Bacon County Fire and Emergency Medical Services.

Fifth Defense

Any damages that any female who applied for or inquired about employment with the Alma-Bacon County Fire and Emergency Medical Services were the direct and proximate result of their own actions or inaction.

Sixth Defense

Plaintiff's claims are barred to the extent that it failed to file this civil action within the applicable limitations period or to the extent it failed to satisfy all conditions precedent or statutory prerequisites required under Title VII of the Civil

Rights Act of 1964, 42 U.S.C. §2000e et seq., or other applicable law. Furthermore, Plaintiff's claims are barred to the extent that they were not the subject of the EEOC charge of discrimination or are otherwise outside the scope of the EEOC charge of discrimination.

Seventh Defense

Any damages that any female who applied for or inquired about employment with the Alma-Bacon County Fire and Emergency Medical Services suffered resulted from the acts or omissions of others for whom Defendant City of Alma is not liable.

Eighth Defense

The females who applied for or inquired about employment with the Alma-Bacon County Fire and Emergency Medical Services have failed to mitigate their alleged damages.

Ninth Defense

Plaintiff is not entitled to the relief requested.

Tenth Defense

As to the allegations contained in the individually-numbered paragraphs of the Complaint, Defendant City of Alma states as follows:

1.

Answering paragraph 1 of the Complaint, Defendant City of Alma admits that Plaintiff purports to bring this action allegedly to enforce the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., as amended. Except as

specifically admitted herein, Defendant City of Alma denies paragraph 1 of the Complaint.

2.

Defendant City of Alma admits the allegations contained in paragraph 2 of the Complaint.

3.

Defendant City of Alma admits the allegations contained in paragraph 3 of the Complaint.

4.

Defendant City of Alma admits the allegations contained in paragraph 4 of the Complaint.

5.

Answering paragraph 5 of the Complaint, Defendant City of Alma admits that Bacon County, Georgia, is a body politic and a political subdivision of the State of Georgia. Answering further, Defendant City of Alma is without sufficient knowledge or information at this time to form a belief as to the truth of the remaining allegations contained in paragraph 3 of the Complaint and, therefore, denies the same.

6.

Answering paragraph 6 of the Complaint, Defendant City of Alma is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint and, therefore, denies the same.

7.

Defendant City of Alma admits the allegations contained in

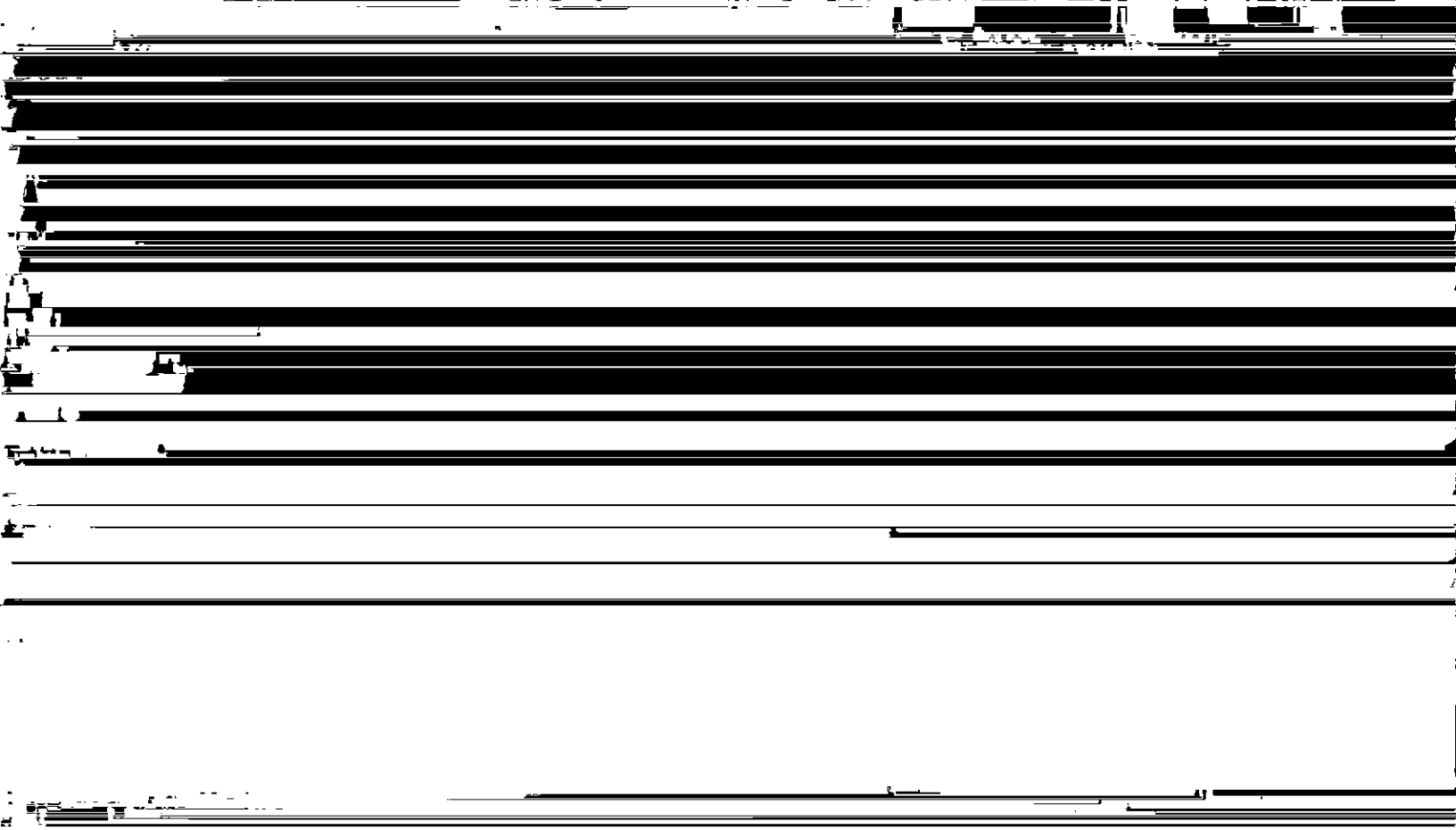
paragraph 7 of the Complaint.

8.

Defendant City of Alma admits the allegations contained in paragraph 8 of the Complaint.

9.

Answering paragraph 9 of the Complaint, Defendant City of Alma admits that persons employed by Alma-Bacon County Fire and Emergency Medical Services are covered by Defendant City of Alma's retirement plan. Answering further, Defendant City of Alma admits that its personnel policies and procedures are utilized in hiring decisions for the Alma-Bacon County Fire and Emergency Medical Services and that persons employed by Alma-Bacon County Fire and Emergency Medical Services are generally subject to Defendant City of Alma's personnel policies and procedures, but denies that hiring decisions for Alma-Bacon County Fire and Emergency Medical Services are solely regulated by Defendant City of Alma's



10.

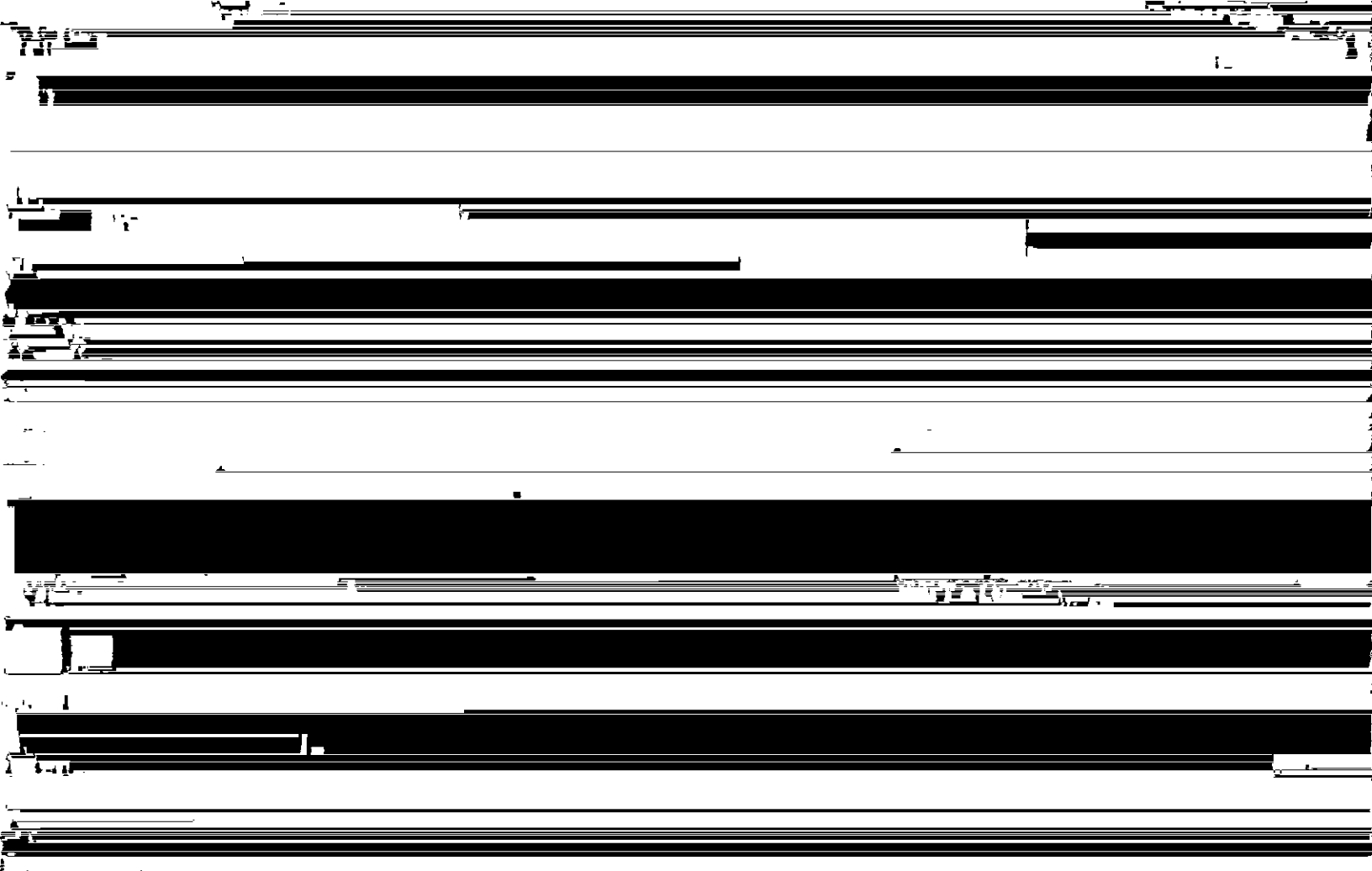
Defendant City of Alma admits the allegations contained in paragraph 10 of the Complaint.

11.

Defendant City of Alma denies the allegations contained in paragraph 11 of the Complaint.

12.

Answering paragraph 12 the Complaint, Defendant City of Alma admits that Pamela F. Starling filed charge of discrimination number 115960501 against Alma-Bacon County Fire and Emergency Medical Services with the federal Equal Employment Opportunity Commission ("EEOC") alleging sex discrimination and that the



City of Alma also admits that the United States Department of Justice became involved in the matter when the matter was not resolved through conciliation. Answering further, Defendant City of Alma is without sufficient knowledge or information at this time to form a belief as to the truth of the remaining allegations contained in paragraph 13 of the Complaint and, therefore, denies the same.

14.

Defendant City of Alma denies the allegations contained in paragraph 14 of the Complaint.

15.

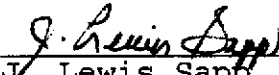
Defendant City of Alma denies that Plaintiff is entitled to any of the relief requested in lettered subparagraphs (i) and (ii) of the unnumbered ad damnum clause and further denies that Plaintiff is entitled to any relief whatsoever.

16.

Except as specifically admitted above, Defendant City of Alma denies any and all claims and/or allegations that are or may be raised in the Complaint.

WHEREFORE, Defendant City of Alma respectfully submits that the Complaint be dismissed in its entirety with prejudice, and that the Court award all appropriate relief to Defendant City of Alma including, but not limited to, its costs and attorneys' fees.

Respectfully submitted this the _____ day of July, 1999.


J. Lewis Sapp
Georgia Bar No. 626300


Sharon P. Morgan
Georgia Bar No. 522955

ELARBEE, THOMPSON & TRAPNELL, LLP
800 International Tower
229 Peachtree Street, N.E.
Atlanta, Georgia 30303
(404) 659-6700

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
vs.)
)
CITY OF ALMA, GEORGIA; AND)
BACON COUNTY, GEORGIA,)
)
 Defendants.)

Civil Action No.
CV-599-68-WTM

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing **ANSWER OF DEFENDANT CITY OF ALMA** has been served upon the below-named Counsel for Plaintiff and Counsel for Defendant Bacon County by placing same in the United States mail, postage prepaid, addressed as follows:

Aaron D. Schuham, Esq.
U.S. Department of Justice
Civil Rights Division
Employment Litigation Section
P.O. Box 65968
Washington, D.C. 20035-5968

Benton J. Mathis, Jr., Esq.
Freeman, Mathis & Gary, LLP
100 Galleria Parkway, 16th Floor
Atlanta, Georgia 30339

Respectfully submitted, this 15 day of July, 1999.


Sharon P. Morgan
Georgia Bar No. 522955

ELARBEE, THOMPSON & TRAPNELL, LLP
800 International Tower
229 Peachtree Street, N.E.
Atlanta, Georgia 30303
(404) 659-6700