

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 5:99-CV-189-V

FILED
STATESVILLE, N.C.

JAN 3 2000

U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF NEWTON, NORTH
CAROLINA,

Defendant.

ANSWER

NOW COMES the Defendant, CITY OF NEWTON, NORTH CAROLINA, by and through its counsel, and hereby responds to the Complaint of the Plaintiff, UNITED STATES OF AMERICA, as follows:

1. It is admitted that the Complaint is brought on behalf of the United States. As to all other allegations of Paragraph 1 of the Plaintiff's Complaint, the same are denied.

2. The allegations of Paragraph 2 of the Plaintiff's Complaint constitute conclusions of law to which a response is not required by the Federal Rules of Civil Procedure. To the extent a response is required, the allegations of Paragraph 2 are denied.

3. The allegations of Paragraph 3 of the Plaintiff's Complaint are admitted.

4. The allegations of Paragraph 4 of the Plaintiff's Complaint constitute conclusions of law to which a response is not required by the Federal Rules of Civil Procedure. To the extent a response is required, the allegations of Paragraph 4 are denied.

5. The allegations of Paragraph 5 of the Plaintiff's Complaint, and each of its subparts, constitute conclusions of law to which a response is not required by the Federal Rules of Civil Procedure. To the extent a response is required, the allegations of Paragraph 5 are denied with strict proof thereof demanded at the time of trial.

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6. It is admitted that the Equal Employment Opportunity Commission ("EEOC") received a timely charge filed by Mr. Stokeley at Charge No. 140-97-1556. As to all other allegations of Paragraph 6 of the Plaintiff's Complaint, the same are denied with strict proof thereof demanded at the time of trial.

7. It is admitted that the EEOC investigated the charge by Donald Stokeley. As to the remaining allegations of Paragraph 7 of the Plaintiff's Complaint, the same constitute conclusions of law to which a response is not required by the Federal Rules of Civil Procedure. To the extent a response is required, the allegations of Paragraph 7 are denied.

8. The allegations of Paragraph 8 of the Plaintiff's Complaint constitute conclusions of law to which a response is not required by the Federal Rules of Civil Procedure. To the extent a response is required, the allegations of Paragraph 8 are denied.

FIRST AFFIRMATIVE DEFENSE
(MOTION TO DISMISS PURSUANT TO RULE 12(b)(6))

The allegations contained in Plaintiff's Complaint fail to state a cause of action upon which relief can be granted, and the same should be dismissed, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

SECOND AFFIRMATIVE DEFENSE
(COMPLIANCE WITH STATUTE)

At all times the City of Newton was in compliance with the provisions of Title VII of the Civil Rights Act of 1964.

THIRD AFFIRMATIVE DEFENSE
(TERMINATION FOR JUST CAUSE)

The City of Newton appropriately terminated Donald Stokeley for just cause and at no time discriminated against Donald Stokeley for any reason in violation of his civil rights.

Respectfully submitted, this the 30th day of December, 1999.

HEDRICK, EATMAN, GARDNER &
KINCHELOE, L.L.P.

BY:



PAUL C. LAWRENCE

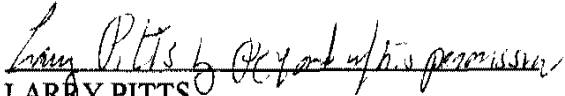
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon all counsel of Record by depositing a copy of the same in an official depository of the United States mail in a postage-paid envelope addressed to:

Charlotte Burrows
UNITED STATES DEPARTMENT OF JUSTICE
Civil Rights Division
Employment Litigation Section
Post Office Box 65968
Washington, DC 20035-5968
Attorney for Plaintiff.

This the 30th day of December, 1999.



PAUL C. LAWRENCE
NC State Bar No. 20463