

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

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UNITED STATES OF AMERICA

Plaintiff,

and

Civil Action: CIV 01 0054 PHK/RLP  
CLEER

ESTHER HERRERA, MARCELLA MARTINEZ, and  
LORRAINE SANCHEZ,

Plaintiffs In Intervention

vs

THE VILLAGE OF CUBA, NEW  
MEXICO,

Defendant.

**ANSWER TO COMPLAINT IN INTERVENTION**

Defendant Village of Cuba, New Mexico answers the Complaint In Intervention as follows.

1. Cuba denies paragraph 1 of the Complaint.
2. Cuba admits that intervenors are residents of Sandoval County, New Mexico but denies the remaining allegations in paragraph 2 of the Complaint.
3. Answering paragraph 3 of the Complaint Cuba admits that intervenors are employees within the meaning of Title VII and the New Mexico Human Rights Act but denies that the Court has jurisdiction over this case as Cuba has fewer than 15 employees for purposes of Title VII and any claims by intervenors under the New Mexico Human Rights are barred in that intervenors failed to exhaust their administrative remedies under the New Mexico Human Rights Act and the Court is without jurisdiction over those claims, if any.

4. Cuba admits it is a political subdivision of the state of New Mexico and exists under the laws of the State of New Mexico but denies the remaining allegations in paragraph 4 of the Complaint.

5. Cuba denies paragraph 5 of the Complaint.

#### Count I – Title VII

6. Cuba denies paragraph 6 of the Complaint.

7. Cuba admits paragraph 7 of the Complaint.

8. Cuba admits paragraph 8 of the Complaint but states that the charges were without merit.

9. Cuba denies paragraph 9 of the Complaint.

#### Count II – Equal Pay Act

10. Cuba repeats each and every answer above.

11. Cuba admits paragraph 11 of the Complaint.

12. Cuba denies paragraph 12 of the Complaint.

13. Cuba denies paragraph 13 of the Complaint.

14. Cuba denies paragraph 14 of the Complaint.

15. Cuba denies paragraph 15 of the Complaint.

16. Cuba denies paragraph 16 of the Complaint.

#### Count III – Human Rights Act

17. Cuba repeats each and every answer above.

18. Cuba admits paragraph 18 of the Complaint but states intervenors' claims under the New Mexico Human Rights Act are barred by their failure to exhaust administrative remedies and the court is without jurisdiction over those claims.

19. Cuba denies paragraph 19 of the Complaint.

20. Cuba denies paragraph 20 of the Complaint.

#### Affirmative and Alternate Defenses

1. The complaint fails to state a claim on which relief can be granted.

2. The Court has jurisdiction over intervenors' Title VII claims as Defendant at all relevant times had fewer than 15 employees.

3. Intervenors' Equal Pay Act Claims, if any, are barred in whole or in part the applicable statute of limitations.

4. Intervenors' New Mexico Human Rights Act Claims are barred in that Intervenors failed to exhaust their administrative remedies and the Court is without jurisdiction over those claims.

5. Defendant at all times acted in good faith.


6. Defendant's acts, if any, were privileged.

7. Defendant's acts, if any, were in accord with law.

8. Plaintiff has failed to mitigate damages, if any.

WHEREFORE, having answered and defended, Defendant prays that the complaint be dismissed and that the Defendant be awarded its costs and attorney's fees as the complaint is frivolous.

Crider, Bingham & Hurst, P.C.

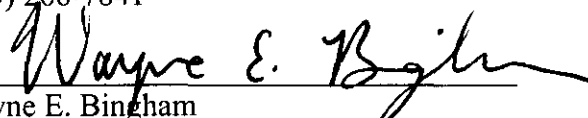
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I hereby certify that a true and correct copy of the foregoing was mailed this 17<sup>th</sup> day of August, 2001, to:

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