

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

FILED - CLERK
U.S. DISTRICT COURT

03 APR -8 PM 2: 28

TX EASTERN - BEAUMONT

SYLVESTER MCCLAIN, on his own
behalf and on behalf of a class of similarly
situated persons, et al.,

§
§
§
§
§
§
§
§
§
§


Plaintiffs,

vs.

CIVIL ACTION NO. 9:97-CV-063

LUFKIN INDUSTRIES,

Defendant.

BY 

DEFENDANT'S AMENDED ANSWER

Lufkin Industries ("Lufkin") answers Plaintiffs' Second Amended Supplemental
Complaint as follows:

1. Defendant admits that Plaintiff Class Representatives (hereinafter "Plaintiffs")
purport to bring an action under 42 U.S.C. § 1981 and Title VII of the Civil Rights Act.
Defendant denies having violated any laws or the existence of a class of similarly situated
persons. While Defendant admits that the Court certified a class under Fed. R. Civ. P. 23(b)(2)
on March 31, 1999, Defendant denies that the Court certified a class under 42 U.S.C. § 1981 and
further denies that a class is properly certified.

2. Defendant admits that Plaintiffs have been employed by Lufkin Industries.
Defendant denies the remaining allegations contained in Paragraph 2 of Plaintiffs' Second
Amended Supplemental Complaint.

3. Defendant admits that Plaintiffs purport to bring an action under 42 U.S.C. §
1981 and Title VII and they seek declaratory and equitable relief. Defendant denies having
violated any laws and denies that Plaintiffs are entitled to relief. Defendant denies the remaining
allegation in Paragraph 3 of Plaintiffs' Second Amended Supplemental Complaint.

174

4. Defendant admits that this Court has jurisdiction over all civil actions arising under the Constitution, laws or treaties of the United States including claims brought under 42 U.S.C. §1981 and Title VII of the Civil Rights Act.

5. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraph 5 of Plaintiffs' Second Amended Supplemental Complaint.

6. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraph 6 of Plaintiffs' Second Amended Supplemental Complaint.

7. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraph 7 of Plaintiffs' Second Amended Supplemental Complaint.

8. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraph 8 of Plaintiffs' Second Amended Supplemental Complaint.

9. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraph 9 of Plaintiffs' Second Amended Supplemental Complaint.

10. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraph 10 of Plaintiffs' Second Amended Supplemental Complaint.

11. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraph 11 of Plaintiffs' Second Amended Supplemental Complaint.

12. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraph 12 of Plaintiffs' Second Amended Supplemental Complaint.

13. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraph 13 of Plaintiffs' Second Amended Supplemental Complaint.

14. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraph 14 of Plaintiffs' Second Amended Supplemental Complaint.

15. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraph 15 of Plaintiffs' Second Amended Supplemental Complaint.

16. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraph 16 of Plaintiffs' Second Amended Supplemental Complaint.

17. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraph 17 of Plaintiffs' Second Amended Supplemental Complaint.

18. Defendant admits that this Court has certified a class but denies that a class of similarly situated Plaintiffs exists or that certification was proper.

19. Defendant admits the allegations set forth in Paragraph 19 of Plaintiffs' Second Amended Supplemental Complaint.

20. Defendant has insufficient knowledge to either admit or deny the allegation that McClain received his Right-to-Sue letter on or about December 4, 1996. Defendant denies the remaining allegations contained in Paragraph 20 in Plaintiffs' Second Amended Supplemental Complaint.

21. Defendant admits that all of the Plaintiffs have been employed by Defendant at some time since March 6, 1994. Defendant denies the remaining allegations contained in Paragraph 21 of Plaintiffs' Second Amended Supplemental Complaint.

22. Defendant admits the allegations contained in Paragraph 22 of Plaintiffs' Second Amended Supplemental Complaint.

23. Defendant admits that Plaintiff McClain is a black, African-American but denies, for lack of knowledge, the remaining allegations in Paragraph 23 of Plaintiffs' Second Amended Supplemental Complaint.

24. Defendant admits the allegations contained in Paragraph 24 of Plaintiffs' Second Amended Supplemental Complaint.

25. Defendant denies the allegation contained of Paragraph 25 of Plaintiffs' Second Amended Supplemental Complaint.

26. Defendant admits the allegations contained in Paragraph 26 of Plaintiffs' Second Amended Supplemental Complaint.

27. Defendant denies the allegations contained in Paragraph 27 of Plaintiffs' Second Amended Supplemental Complaint.

28. Defendant admits that Plaintiff McClain served as a Quality Assurance Manager from 1991 through 1996. Defendant denies the remaining allegations in Paragraph 28 of Plaintiffs' Second Amended Complaint.

29. Defendant denies the allegations contained in Paragraph 29 of Plaintiffs' Second Amended Supplemental Complaint.

30. Defendant denies the allegations contained in Paragraph 30 of Plaintiffs' Second Amended Supplemental Complaint.

31. Defendant denies the allegations contained in Paragraph 31 of Plaintiffs' Second Amended Supplemental Complaint.

32. Defendant admits that in January of 1996, Plaintiff McClain was reassigned from the position of Quality Assurance Manager to the position of Inspector. Defendant denies the remaining allegations contained in Paragraph 32 of Plaintiffs' Second Amended Supplemental Complaint.

33. Defendant denies the allegations set forth in Paragraph 33 of Plaintiffs' Second Amended Supplemental Complaint.

34. Defendant denies the allegations set forth in Paragraph 34 of Plaintiffs' Second Amended Supplemental Complaint.

35. Defendant denies the allegations set forth in Paragraph 35 of Plaintiffs' Second Amended Supplemental Complaint.

36. Defendant admits that Plaintiff Thomas a black, African-American, but denies for lack of knowledge, the remaining allegations contained in Paragraph 36 of Plaintiffs' Second Amended Supplemental Complaint.

37. Defendant admits the allegations contained in Paragraph 37 of Plaintiffs' Second Amended Supplemental Complaint.

38. Defendant admits the allegations contained in Paragraph 38 of Plaintiffs' Second Amended Supplemental Complaint.

39. Defendant denies the allegations contained in Paragraph 39 of Plaintiffs' Second Amended Supplemental Complaint.

40. Defendant denies the allegations contained in Paragraph 40 of Plaintiffs' Second Amended Supplemental Complaint.

41. Defendant denies the allegations contained in Paragraph 41 of Plaintiffs' Second Amended Supplemental Complaint.

42. Defendant denies the allegations contained in Paragraph 42 of Plaintiffs' Second Amended Supplemental Complaint.

43. Defendant admits that Plaintiff Thomas received supervisory training but denies the allegations contained in Paragraph 43 of Plaintiffs' Second Amended Supplemental Complaint.

44. Defendant denies the allegations contained in Paragraph 44 of Plaintiffs' Second Amended Supplemental Complaint.

45. Defendant denies the allegation contained on Paragraph 45 of Plaintiffs' Second Amended Supplemental Complaint.

46. Defendant denies the allegation contained in Paragraph 46 of Plaintiffs' Second Amended Supplemental Complaint.

47. Defendant admits that Plaintiff Ross is a black, African-American, but denies, for lack of knowledge, the remaining allegations in Paragraph 47 of Plaintiffs' Second Amended Supplemental Complaint.

48. Defendant admits the allegation contained in Paragraph 48 of Plaintiffs' Second Amended Supplemental Complaint.

49. Defendant admits that it offered Plaintiff Ross employment in the foundry but denies the remaining allegations in Paragraph 49 of Plaintiffs' Second Amended Supplemental Complaint.

50. Defendant denies the allegations contained in Paragraph 50 of Plaintiffs' Second Amended Supplemental Complaint.

51. Defendant denies the allegation contained in Paragraph 51 of Plaintiffs' Second Amended Supplemental Complaint.

52. Defendant denies that the working conditions in the foundry are "onerous." Defendant denies, for lack of knowledge, the remaining allegations in Paragraph 52 of Plaintiffs' Second Amended Supplemental Complaint.

53. Defendant denies the allegations contained in Paragraph 53 of Plaintiffs' Second Amended Supplemental Complaint.

54. Defendant admits that Plaintiff Mary Williams is a black, African-American, but denies, for lack of knowledge, the remaining allegations in Paragraph 54 of Plaintiffs' Second Amended Supplemental Complaint.

55. Defendant admits the allegation contained in Paragraph 55 of Plaintiffs' Second Amended Supplemental Complaint.

56. Defendant admits the allegations contained in Paragraph 56 of Plaintiffs' Second Amended Supplemental Complaint.

57. Defendant admits that it initially assigned Mary Thomas to work in the trailer division but denies the remaining allegations contained in Paragraph 57 of Plaintiffs' Second Amended Supplemental Complaint.

58. Defendant denies the allegations contained in Paragraph 58 of Plaintiffs' Second Amended Supplemental Complaint.

59. Defendant denies the allegations contained in Paragraph 59 of Plaintiffs' Second Amended Supplemental Complaint.

60. Defendant denies the allegations contained in Paragraph 60 of Plaintiffs' Second Amended Supplemental Complaint.

61. Defendant denies the allegations contained in Paragraph 61 of Plaintiffs' Second Amended Supplemental Complaint.

62. Defendant admits that Eddie Mask is a black, African-American, but denies, for lack of knowledge, the remaining allegations in Paragraph 62 of Plaintiffs' Second Amended Supplemental Complaint.

63. Defendant admits the allegations contained in Paragraph 63 of Plaintiffs' Second Amended Supplemental Complaint.

64. Defendant denies the allegations contained in Paragraph 64 of Plaintiffs' Second Amended Supplemental Complaint.

65. Defendant denies the allegations contained in Paragraph 65 of Plaintiffs' Second Amended Supplemental Complaint.

66. Defendant admits that Leroy Garner is a black, African-American, but denies, for lack of knowledge, the remaining allegations contained in Paragraph 66 of Plaintiffs' Second Amended Supplemental Complaint.

67. Defendant admits the allegations contained in Paragraph 67 of Plaintiffs' Second Amended Supplemental Complaint.

68. Defendant denies the allegations contained in Paragraph 68 of Plaintiffs' Second Amended Supplemental Complaint.

69. Defendant denies the allegations contained in Paragraph 69 of Plaintiffs' Second Amended Supplemental Complaint.

70. Defendant admits that Sherry Calloway Swint is a black, African-American, but denies, for lack of knowledge, the remaining allegations in Paragraph 70 of Plaintiffs' Second Amended Supplemental Complaint.

71. Defendant admits the allegations contained in Paragraph 71 of Plaintiffs' Second Amended Supplemental Complaint.

72. Defendant denies the allegations contained in Paragraph 72 of Plaintiffs' Second Amended Supplemental Complaint.

73. Defendant denies the allegations contained in Paragraph 73 of Plaintiffs' Second Amended Supplemental Complaint.

74. Defendant denies the allegations contained in Paragraph 74 of Plaintiffs' Second Amended Supplemental Complaint.

75. Defendant denies, for lack of knowledge, the allegations contained in Paragraph 75 of Plaintiffs' Second Amended Supplemental Complaint.

76. Defendant denies the allegations contained in Paragraph 76 of Plaintiffs' Second Amended Supplemental Complaint.

77. Defendant denies that the allegations contained in Paragraph 77 of Plaintiffs' Second Amended Supplemental Complaint.

78. Defendant denies the allegations contained in Paragraph 78 of Plaintiffs' Second Amended Supplemental Complaint.

79. Defendant denies the allegations contained in Paragraph 79 of Plaintiffs' Second Amended Supplemental Complaint.

80. Defendant admits that Florine Thompson is an African-American, but denies, for lack of knowledge the remaining allegation in Paragraph 80 of Plaintiffs' Second Amended Supplemental Complaint.

81. Defendant admits the allegation contained in Paragraph 81 of Plaintiffs' Second Amended Supplemental Complaint.

82. Defendant denies the allegation contained on Paragraph 82 of Plaintiffs' Second Amended Supplemental Complaint.

83. Defendant denies the allegations contained in Paragraph 83 of Plaintiffs' Second Amended Supplemental Complaint.

84. Defendant denies the allegation contained in Paragraph 84 of Plaintiffs' Second Amended Supplemental Complaint.

85. Defendant denies the allegation contained in Paragraph 85 of Plaintiffs' Second Amended Supplemental Complaint.

86. Defendant denies the allegations contained in Paragraph 86 of Plaintiffs' Second Amended Supplemental Complaint.

87. Defendant denies the allegations contained in Paragraph 87 of Plaintiffs' Second Amended Supplemental Complaint.

88. Defendant denies, for lack of knowledge, the allegations contained in Paragraph 88 of Plaintiffs' Second Amended Supplemental Complaint.

89. Defendant denies, for lack of knowledge, the allegation contained in Paragraph 89 of Plaintiffs' Second Amended Supplemental Complaint.

90. Defendant denies the allegations contained in Paragraph 90 of Plaintiffs' Second Amended Supplemental Complaint.

91. Defendant denies the allegations contained in Paragraph 91 of Plaintiffs' Second Amended Supplemental Complaint.

92. Defendant denies the allegations contained in Paragraph 92 of Plaintiffs' Second Amended Supplemental Complaint.

93. Defendant admits that Clifford Duirden is a black, American-American, but denies, for lack of knowledge, the remaining allegations in Paragraph 93 of Plaintiffs' Second Amended Supplemental Complaint.

94. Defendant admits that Clifford Duirden was hired in 1987 but denies that he remains employed by Lufkin Industries.

95. Defendant admits that it initially assigned Duirden to the foundry but denies the remaining allegations contained in Paragraph 95 of Plaintiffs' Second Amended Supplemental Complaint.

96. Defendant denies the allegations contained in Paragraph 96 of Plaintiffs' S Amended Supplemental Complaint.

97. Defendant denies the allegations contained in Paragraph 97 of Plaintiffs' Second Amended Supplemental Complaint.

98. Defendant admits that Earl Potts is an African-American, but denies, for lack of knowledge, the remaining allegations contained in Paragraph 98 of Plaintiffs' Second Amended Supplemental Complaint.

99. Defendant admits that Earl Potts was hired in 1989 but denies that he remains employed by Lufkin Industries.

100. Defendant denies the allegations contained in Paragraph 100 of Plaintiffs' Second Amended Supplemental Complaint.

101. Defendant denies the allegations contained in Paragraph 101 of Plaintiffs' Second Amended Supplemental Complaint.

102. Defendant admits that it assigned Potts to jobs in the Power Transmission Division, but denies the remaining allegations contained in Paragraph 102 of Plaintiffs' Second Amended Supplemental Complaint.

103. Defendant denies the allegations contained in Paragraph 103 of Plaintiffs' Second Amended Supplemental Complaint.

104. Defendant admits that Roald Mark is a black, African-American, but denies, for lack of knowledge, the remaining allegation contained in Paragraph 104 of Plaintiffs' Second Amended Supplemental Complaint.

105. Defendant admits that it hired Mark in April, 1995 and that it assigned him to work in the foundry, but Defendant denies the remaining allegation contained in Paragraph 105 of Plaintiffs' Second Amended Supplemental Complaint.

106. Defendant denies the allegations contained in Paragraph 106 of Plaintiffs' Second Amended Supplemental Complaint.

107. Defendant denies the allegations contained in Paragraph 107 of Plaintiffs' Second Amended Supplemental Complaint.

108. Defendant denies the allegations contained in Paragraph 108 of Plaintiffs' Second Amended Supplemental Complaint.

109. Defendant denies the allegations contained in Paragraph 109 of Plaintiffs' Second Amended Supplemental Complaint.

110. Defendant denies the allegations contained in Paragraph 110 of Plaintiffs' Second Amended Supplemental Complaint.

111. Defendant denies the allegations contained in Paragraph 111 of Plaintiffs' Second Amended Supplemental Complaint.

112. Defendant denies the allegations contained in Paragraph 112 of Plaintiffs' Second Amended Supplemental Complaint.

113. Defendant denies the allegation contained in Paragraph 113 of Plaintiffs' Second Amended Supplemental Complaint.

114. Defendant denies the allegations contained in Paragraph 114 of Plaintiffs' Second Amended Supplemental Complaint.

115. Defendant denies the allegations contained in Paragraph 115 of Plaintiffs' Second Amended Supplemental Complaint.

116. Defendant denies the allegations contained in Paragraph 116 of Plaintiffs' Second Amended Supplemental Complaint.

117. Defendant denies the allegations contained in Paragraph 117 of Plaintiffs' Second Amended Supplemental Complaint.

118. Defendant denies the allegations contained in Paragraph 118 of Plaintiffs' Second Amended Supplemental Complaint.

119. Defendant denies the allegations contained in Paragraph 119 of Plaintiffs' Second Amended Supplemental Complaint.

120. Defendant denies the allegations contained in Paragraph 120 of Plaintiffs' Second Amended Supplemental Complaint.

121. Defendant denies the allegations contained in Paragraph 122 of Plaintiffs' Second Amended Supplemental Complaint.

122. Defendant denies the allegations contained in Paragraph 122 of Plaintiffs' Second Amended Supplemental Complaint.

123. Defendant denies the allegations contained in Paragraph 123 of Plaintiffs' Second Amended Supplemental Complaint. Defendant also denies that Plaintiffs' are entitled to any relief requested in Paragraph 123.

124. Defendant denies the allegations contained in Paragraph 124 of Plaintiffs' Second Amended Supplemental Complaint. Defendant also denies that Plaintiffs' are entitled to any relief requested in Paragraph 124.

125. Defendant denies the allegation contained in Paragraph 125 of Plaintiffs' Second Amended Supplemental Complaint. Defendant also denies that Plaintiffs' are entitled to any relief requested in Paragraph 125.

126. Defendant denies that Plaintiffs' are entitled to the relief requested in their Prayer for Relief in Section VII of Plaintiffs' Second Amended Supplemental Complaint.

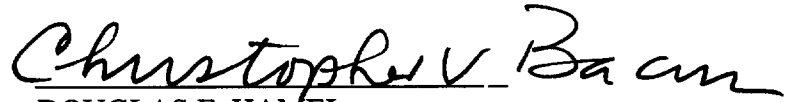
AFFIRMATIVE DEFENSES

By way of the affirmative defenses, Defendant would further show as follows:

1. Plaintiffs' claims, in whole or in part, are barred by limitations.
2. Plaintiffs have failed to state a claim upon which the lease may be granted.
3. Plaintiffs have failed to exhaust their administrative remedies.
4. On information and belief Plaintiffs have failed to mitigate their losses, if any.
5. Plaintiffs' claims may be preempted, at least in part, by the Labor Management Relations Act.
6. For those Plaintiffs who are represented by unions, their assignments, professional opportunities, demotions, layoffs, recalls, and terminations are dictated by the terms of the collective bargaining agreement and a bona fide seniority system.
7. For those Plaintiffs who are represented by unions, their claims may be barred by their failure to grieve Lufkin's decisions under the terms of the collective bargaining agreement, to the extent that their claims raise issues that are within the scope of the collective bargaining agreement.

8. Plaintiff Mark's claims, in part, are barred by res judicata.

Respectfully submitted,



DOUGLAS E. HAMEL
State Bar No. 08818300
CHRISTOPHER V. BACON
State Bar No. 01493980
2300 First City Tower
1001 Fannin
Houston, Texas 77002-6760
(713) 758-1148 (Telephone)
(713) 615-5014 (Telecopy)
ATTORNEYS FOR DEFENDANT
LUFKIN INDUSTRIES

OF COUNSEL:

VINSON & ELKINS, L.L.P.
1100 First City Tower
Houston, Texas 77002-6760

CERTIFICATE OF SERVICE

I certify that on this 7th day of April 2003, a correct copy of the foregoing Defendant Lufkin Industries' Amended Answer was forwarded to counsel for Plaintiffs by telecopy or by placing same in the United States mail, certified, return receipt requested, with proper postage affixed and addressed as follows:

Timothy B. Garrigan
Stuckey & Garrigan
2803 North Street
Nacogdoches, Texas 76961

Teresa Demchak
Saperstein, Goldstein, Demchak & Baller
300 Lakeside Drive, Suite 1000
Oakland, California 94612


Attorney for Defendant