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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAN 20 2004

JAMES R. LARSEN, CLERK
DEPUTY
YAKIMA, WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

OLIVIA MENDOZA and JUANA)
MENDIOLA, individually and on)
behalf of all other similarly situated,)

Plaintiffs,

v.

ZIRKLE FRUIT CO., a Washington)
corporation, MATSON FRUIT)
COMPANY, a Washington corporation)
and SELECTIVE EMPLOYMENT)
AGENCY, INC., a Washington)
corporation,)

Defendants.)

NO. CY-00-3024-FVS

DEFENDANT SELECTIVE
EMPLOYMENT'S ANSWER
TO PLAINTIFFS' SECOND
AMENDED COMPLAINT

Comes now Defendant Selective Employment Agency, Inc. ("Selective") and answers the Plaintiffs' Second Amended Complaint as follows:

1. Selective disputes that the alleged class is appropriate from either a factual or legal perspective, and accordingly denies the allegation set forth in paragraph one (1) of the Plaintiffs' complaint.

1 2. This allegation does not appear to pertain to Selective, and Selective
2 offers no response. To the extent Selective is alleged to have known of or
3 participated in the “scheme” alleged in paragraph two (2) of the Plaintiffs’ complaint,
4 such allegation is denied.
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8 3. This allegation does not appear to pertain to Selective, and Selective
9 offers no response. To the extent Selective is alleged to have participated in the
10 “scheme” alleged in paragraph three (3) of the Plaintiffs’ complaint, such allegation
11 is denied.
12
13

14 4. Denied.
15

16 5. Denied.
17

18 6. Denied.
19

20 7. Denied.
21

22 8. Selective admits that plaintiff Mendoza was employed by Matson as a
23 warehouse laborer. Selective has insufficient knowledge or is otherwise unable to
24 respond to the remaining allegations in paragraph eight (8) of the Plaintiffs’
25 complaint, and such allegations are therefore denied.
26
27

28 9. Selective admits that it hired plaintiff Mendiola, and that she was
29 assigned to perform warehouse work at Zirkle in late 1999 and early 2000. Selective
30 has insufficient knowledge or is otherwise unable to respond to the remaining
31 allegations in paragraph nine (9) of the Plaintiffs’ complaint, and such allegations are
32 therefore denied.
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1 10. Selective has insufficient information to form a belief as to the truth or
2 falsity of the allegations set forth at paragraph 10 of the Plaintiffs' complaint, and
3 such allegations are therefore denied.
4

5
6 11. Denied.
7

8 12. Admitted.
9

10 13. Denied.
11

12 14. Denied.
13

14 15. Denied.
15

16 16. Admitted.
17

18 17. Selective denies that the exercise of supplemental jurisdiction is
19 appropriate.
20

21 18. Selective denies all allegations and implications relating to "illegal acts",
22 but admits that venue for this litigation is properly situated in the Eastern District of
23 Washington.
24

25 19. Selective denies that this action may be appropriately pursued as a class
26 action, and further denies that it is properly included as a defendant of the proposed
27 class. Only a fraction of the proposed class would have been hired by Selective.
28

29 20. Denied.
30

31 21. Paragraph 21 of the Plaintiffs' complaint, including sub-parts a-d, is
32 denied in its entirety.
33

34 22. Denied.
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23. Denied.

24. Paragraph 24 of the Plaintiffs' complaint, including sub-parts a-d, is denied in its entirety.

25. Denied.

26. Admitted.

27. Selective has insufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 27 of the Plaintiffs' complaint, and such allegations are accordingly denied.

28. Denied.

29. The allegations in this paragraph do not pertain to Selective, and Selective offers no response.

30. The allegations in this paragraph do not pertain to Selective, and Selective offers no response.

31. The allegations in this paragraph do not pertain to Selective, and Selective offers no response.

32. The allegations in this paragraph do not pertain to Selective, and Selective offers no response.

33. Selective was made aware, through media reports, of an INS enforcement/education project called "Operation Snowbird". Selective has insufficient information to form a belief as to the truth or falsity of the remaining

1 allegations contained in paragraph 33 of the Plaintiffs' complaint, and such
2 allegations are accordingly denied.
3

4 34. Selective denies the broad assertions relating to the manner in which the
5 hiring of illegal workers may allegedly be prevented. As to the remainder of the
6 allegations in paragraph 34 of the complaint, Selective is without sufficient
7 information to form an opinion as to the truth or falsity thereof, and all such
8 allegations are therefore denied.
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12 35. Selective is without sufficient information to form an opinion as to the
13 truth or falsity of the allegations set forth at paragraph 35 of the complaint, and all
14 such allegations are therefore denied.
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18 36. Selective is without sufficient information to form an opinion as to the
19 truth or falsity of the allegations set forth at paragraph 36 of the complaint, and all
20 such allegations are therefore denied.
21
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23 37. Selective is without sufficient information to form an opinion as to the
24 truth or falsity of the allegations set forth at paragraph 37 of the complaint, and all
25 such allegations are therefore denied.
26
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28 38. Selective admits that it entered an agreement with Matson Fruit
29 Company in 2000. All other allegations contained in paragraph 38 of the complaint
30 are denied.
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33 39. Denied.

34 40. Denied.
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41. No factual assertion is made, and Selective offers no response.

42. Selective is without sufficient information to form an opinion as to the truth or falsity of the allegations set forth at paragraph 42 of the complaint, and all such allegations are therefore denied.

43. Selective is without sufficient information to form an opinion as to the truth or falsity of the allegations set forth at paragraph 43 of the complaint, and all such allegations are therefore denied.

44. Selective is without sufficient information to form an opinion as to the truth or falsity of the allegations set forth at paragraph 44 of the complaint, and all such allegations are therefore denied.

45. Selective is without sufficient information to form an opinion as to the truth or falsity of the allegations set forth at paragraph 45 of the complaint, and all such allegations are therefore denied.

46. Selective is without sufficient information to form an opinion as to the truth or falsity of the allegations set forth at paragraph 46 of the complaint, and all such allegations are therefore denied.

47. Selective is without sufficient information to form an opinion as to the truth or falsity of the allegations set forth at paragraph 47 of the complaint, and all such allegations are therefore denied.

1 48. Selective is without sufficient information to form an opinion as to the
2
3 truth or falsity of the allegations set forth at paragraph 48 of the complaint, and all
4 such allegations are therefore denied.
5

6 49. Selective is without sufficient information to form an opinion as to the
7
8 truth or falsity of the allegations set forth at paragraph 49 of the complaint, and all
9 such allegations are therefore denied.
10

11 50. Selective admits that it entered into a formal agreement whereby it would
12
13 employ workers, and assign them to work at Zirkle on an as-needed basis. All other
14 allegations set forth in paragraph 50 of the complaint are denied.
15

16 51. Selective admits that it was instructed to begin verifying the social
17
18 security numbers of the employees it hired for Zirkle in 2000. The remaining
19 allegations set forth in paragraph 51 of the complaint are denied.
20

21 52. Denied.
22

23 53. Selective is without sufficient information to form an opinion as to the
24
25 truth or falsity of the allegations set forth at paragraph 53 of the complaint, and all
26 such allegations are therefore denied.
27

28 54. Selective is without sufficient information to form an opinion as to the
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30 truth or falsity of the allegations set forth at paragraph 54 of the complaint, and all
31 such allegations are therefore denied.
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33 55. Denied.
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35 56. Denied.

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57. Denied.

58. Denied.

59. Denied.

60. Denied.

61. Denied.

62. Selective incorporates the preceding responses as if fully set forth.

63. Selective admits that the Plaintiffs are “persons”, but denies that it has violated any provisions of 18 USC 1962.

64. Denied.

65. Denied.

66. Denied.

67. Denied.

68. Denied.

69. Denied.

70. Selective incorporates the preceding responses as if fully set forth.

71. No factual assertion is made, and no response is offered.

72. Denied.

73. Denied.

74. Denied.

75. Denied.

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WHEREFORE, HAVING ANSWERED THE PLAINTIFFS' SECOND AMENDED COMPLAINT, AND BY FURTHER ANSWER AND PLEADING, SELECTIVE OFFERS THE FOLLOWING AFFIRMATIVE DEFENSES:

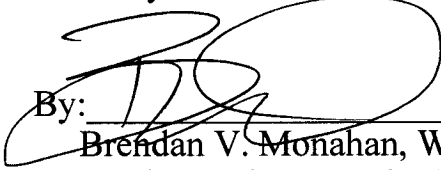
1. The Plaintiffs' damage claims, or a portion thereof, are barred or limited by the statute of limitations.
2. The Plaintiffs' claims are barred or limited by the doctrines of estoppel, waiver, consent and payment, and/or failure to mitigate.
3. Plaintiffs fail to state a claim for Civil Conspiracy.

HAVING FULLY ANSWERED THE PLAINTIFFS' FIRST AMENDED COMPLAINT, SELECTIVE REQUESTS THE FOLLOWING RELIEF:

1. That the pending action be dismissed with prejudice;
2. That Selective be awarded its reasonable costs and attorneys' fees.

DATED this 19th day of January, 2004.

VELIKANJE, MOORE & SHORE, P.S.
Attorney for Defendant Selective

By: 
Brendan V. Monahan, WSBA No. 22315
Sarah L. Wixson, WSBA No. 28423

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CERTIFICATE OF SERVICE

I am Lori A. Busby. I hereby certify under penalty of perjury of the laws of the State of Washington that the following statements are true and correct.

I am one of the employees of the attorneys for the defendant Selective Employment in the above-entitled matter; that I am a citizen of the United States, a resident of Yakima County, Washington, over the age of twenty-one years, and not a party to said action. That on the 20th day of January, 2004, I caused to be deposited in the United States mail, postage prepaid, a copy of the document to which this is attached to the following:

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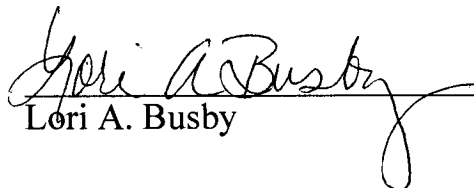
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Dated at Yakima, Washington this 20th day of January, 2004.


Lori A. Busby