

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

FLORENCE DIVISION

Anna C. DeWitt, David Hodge, Lena M.)
Quick, Lynette Hudson, and Jennifer E.)
Amerson, all individually and on behalf of all)
other similarly situated individuals,)
)
Plaintiffs,)
)
v.)
)
Darlington County, South Carolina,)
)
Defendant.)
_____)

C.A. No. 4:11-cv-00740-RBH

ANSWER

The Defendant answers the Complaint as follows:

FOR A FIRST DEFENSE

I. The Complaint fails to state a claim for which relief may be granted.

FOR A SECOND DEFENSE

II. This action is barred or limited by the applicable statute(s) of limitation.

FOR A THIRD DEFENSE

III. At all times herein Defendant acted in good faith, with the belief that all acts and omissions were in compliance with the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*, its regulations, interpretive bulletins, administrative rulings, practices and polices of the United States Department of Labor, Wage and Hour Division.

FOR A FOURTH DEFENSE

IV. Defendant has paid wages in accordance with its policy and, therefore, there is a good faith dispute over the wages Plaintiffs claim.

FOR A FIFTH DEFENSE

V. Trebled, punitive, or other exemplary damages are not available against this Defendant because such damages against public entities violate the public policy.

FOR A SIXTH DEFENSE

VI. Plaintiffs' claims are barred in whole or in part by the doctrines of estoppel, waiver and laches in that Plaintiffs were fully informed of Defendant's pay system, acquiesced and accepted the pay system, and inexcusably sat on their rights .

FOR A SEVENTH DEFENSE

VII. Plaintiffs agreed to and/or accepted the terms and conditions of their employment and, therefore, are barred from pursuing their claims under the South Carolina Wage Payment Act, S.C. Code §§ 41-10-10, *et seq.*

FOR AN EIGHTH DEFENSE

VIII. The Fair Labor Standards Act is unconstitutional as applied to this defendant.

FOR A NINTH DEFENSE

IX. Defendant pleads insufficiency of service of process in that Plaintiffs did not properly serve Defendant the summons and complaint.

FOR A TENTH DEFENSE AND BY WAY OF ANSWER

X. A. Each allegation of the Complaint not hereinafter expressly admitted is denied.

B. Defendant responds to the allegations of the Complaint by paragraph number corresponding to the paragraph number of the Complaint as follows:

1. This is a characterization of the action requiring no response.
2. This is a characterization of the action requiring no response.

3. Admitted upon information and belief.
4. Admitted upon information and belief.
5. Admitted upon information and belief.
6. Admitted upon information and belief.
7. Admitted upon information and belief.
8. Defendant admits only that it is a political subdivision of the State of South Carolina and that it operates an Emergency Medical Service.
9. This is a characterization of the action requiring no response.
10. This is a characterization of the action requiring no response.
11. To the extent the allegations of this paragraph are conclusions of law, no response is required. Any remaining allegations of this paragraph and its subparts A through D are denied.
12. This is a conclusion of law requiring no response.
13. This is a jurisdictional allegation requiring no response.
14. This is a jurisdictional allegation requiring no response.
15. This is a jurisdictional allegation requiring no response.
16. Defendant admits Plaintiff DeWitt's position but affirmatively alleges that Plaintiff was hired in July 1993.
17. Defendant admits Plaintiff Hodge's position but affirmatively alleges that Plaintiff was hired in March 2003.
18. Admitted.
19. Admitted.

20. Admitted.

21. This is a conclusion of law requiring no response.

22. Defendant admits only that EMS employees were scheduled to work 24-hour shifts with 48 hours between shifts.

23. To the extent the allegations of this paragraph are conclusions of law, no response is required. The remainder of the allegations are denied.

24. To the extent the allegations of this paragraph are conclusions of law, no response is required. The remainder of the allegations are denied.

25. Because this is a generalized allegation relating to a proposed class, Defendant is unable to respond to this paragraph and denies the same.

26. Denied.

As to the First Cause of Action
(Failure to Pay Overtime Wages)

27. Defendant incorporates its responses to the foregoing allegations of the Complaint as if set forth herein verbatim.

28. This is a conclusion of law requiring no response.

29. This is a conclusion of law requiring no response.

30. Denied.

31. Denied.

32. Denied.

33. Denied.

34. To the extent the allegations of this paragraph are conclusions of law, no

response is required. The remainder of the allegations are denied.

35. To the extent the allegations of this paragraph are conclusions of law, no response is required. The remainder of the allegations are denied.

36. Defendant admits only that it keeps records of wages paid to its employees.

37. Denied.

As to the Second Cause of Action
(South Carolina Payment of Wages Act)

38. Defendant incorporates its responses to the foregoing allegations of the Complaint as if set forth herein verbatim.

39. This is a conclusion of law requiring no response.

40. Defendant admits only that it employs, or employed, the named Plaintiffs.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

C. Defendant denied Plaintiffs' prayer for relief.

WHEREFORE, having fully answered Plaintiffs' Complaint and having set forth various defenses, Defendant prays that the Complaint be dismissed with costs taxed to Plaintiffs and for such other and further relief as the Court may find to be just and proper.

April 19, 2011

Answer.wpd

Certificate of Service

I hereby certify that on the date indicated above, I caused to be served on counsel of record a true and correct copy of this document by U.S. Mail, first class postage prepaid, or by ECF.

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