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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 Thelma Bailey,

10 Plaintiff,

11 vs.

12 Cartwright School District No. 83,

13 Defendant.

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No. CV-11-1432-PHX-FJM

ORDER

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The court has before it defendant Cartwright School District No. 83's motion to dismiss (doc. 4). Plaintiff has not responded to the motion and the time for doing so has expired. See LRCiv 7.2(c). Plaintiff's failure to respond to the motion may be deemed a consent to the granting of the motion and we may dispose of the motion summarily. LRCiv 7.2(i).

Defendant employed plaintiff has a family and consumer science teacher. During the 2008-2009 school year, defendant's governing board voted to eliminate the family and consumer science elective, at which time plaintiff was notified that she had been selected for a reduction in force for the next school year. Plaintiff filed this action asserting claims under Title VII, the Age Discrimination in Employment Act (ADEA), and the Americans with Disabilities Act (ADA). Defendant moves to dismiss the complaint contending that the action is barred for plaintiff's failure to file a timely charge of discrimination with the Equal

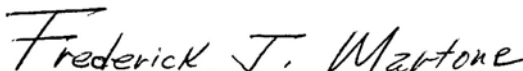
1 Employment Opportunity Commission (EEOC).

2 Before asserting a civil action under Title VII, the ADEA, or the ADA, a plaintiff must
3 first file a charge of discrimination with the EEOC within 300 days after the alleged unlawful
4 employment practice took place. See 42 U.S.C. § 2000e-5(e)(1) (Title VII), 29 U.S.C. §
5 626(d)(1) (ADEA); 42 U.S.C. § 12117(a) (ADA). A discriminatory act is not actionable
6 unless a timely charge is filed. Nat'l R.R. Passenger Corp. v. Morgan, 536 U.S. 101, 113,
7 122 S. Ct. 2061, 2072 (2002).

8 Plaintiff alleges in her complaint that she filed a charge of discrimination with the
9 EEOC before filing this action. Compl. ¶ 16. She filed an unperfected charge on March 30,
10 2010, which was later perfected on August 31, 2010. Motion, ex. A. Therefore, assuming
11 the August charge relates back to the March charge, to be timely, any discriminatory conduct
12 must have occurred on or after June 3, 2009, which was 300 days before the unperfected
13 EEOC claim was filed. The EEOC charge itself states that the latest date that any
14 discrimination occurred was June 1, 2009. Because plaintiff failed to file the charge within
15 300 days after the alleged discriminatory acts occurred, her complaint is time-barred and the
16 action must be dismissed.

17 **IT IS ORDERED GRANTING** defendant's motion to dismiss (doc. 4). The clerk
18 shall enter final judgment.

19 DATED this 17th day of January, 2012.

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23 Frederick J. Martone
24 United States District Judge
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