



IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION
NIMMONS, JR./SNYDER

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

UNITED STATES EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION)
)
Plaintiff,)
)
v.)
)
GEOLOGISTICS AMERICAS, INC.,)
)
Defendant.)
_____)

CIVIL ACTION NO.
3:01-CV-216-J-21TEM

**DEFENDANT GEOLOGISTICS AMERICAS, INC.'S
OPPOSITION TO PLAINTIFFS' MOTION FOR LEAVE TO FILE A RESPONSE TO
DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION TO INTERVENE**

Defendant, GEOLOGISTICS AMERICAS, INC. ("Geologistics" or the "Company"), by and through its undersigned counsel, hereby submits Defendant's Opposition to Plaintiffs' Motion for Leave to File a Response to Defendant's Opposition to Plaintiffs' Motion to Intervene ("Pl. Mem."), and states as follows:

ARGUMENT

I. Defendant Timely Filed an Opposition To Plaintiffs' Motion.

Plaintiffs assert that Defendant's Opposition to Plaintiffs' Motion to Intervene was untimely as it was not filed within ten days as provided by Rule 3.01 of the Local Rules of the Middle District of Florida. (Pl. Mem. At p. 1).

This assertion is incorrect. This case was filed by the United States Equal Employment Opportunity Commission ("EEOC") on behalf of Mitzi B. Smith on February 21, 2001. At the time that Plaintiffs filed their Motion to Intervene on February 26, 2001, the

EEOC's complaint had not yet been served upon Defendant. The EEOC did not provide Defendant with a Waiver of Service of Summons ("Waiver") for the complaint in this matter until March 2, 2001. (See Waiver appended hereto with Exhibit 1). The Waiver stated that Defendant's answer to the EEOC's complaint was due within sixty (60) days after March 2, 2001, which made Defendant's answer due on May 1, 2001. Defendant's counsel accepted the Waiver of Service on April 13, 2001. (See Exhibit 2 appended hereto). Defendant filed its answer to the EEOC's complaint and its Opposition to Plaintiffs' Motion to Intervene on May 1, 2001.

Neither the Federal Rules of Civil Procedure nor the Local Rules of the Middle District of Florida require a Defendant to file anything before an answer to the complaint is filed. The filing of Plaintiffs' Motion to Intervene on February 26, 2001 was a nullity since the EEOC's complaint had not yet been served upon Defendant. Defendant was not under any obligation to file a response to Plaintiffs' Motion to Intervene within ten (10) days of February 26, 2001 because service of the EEOC's complaint upon Defendant had not yet been effectuated. Therefore, Defendant's filing of its Opposition to Plaintiffs' Motion to Intervene along with its answer to the EEOC's complaint was timely as filed on May 1, 2001.

CONCLUSION

WHEREFORE, Defendant, GEOLOGISTICS AMERICAS, INC., respectfully requests that the Court find that its Opposition to Plaintiffs' Motion to Intervene was filed in a timely fashion.

Dated this 18th day of May 2001.

Respectfully submitted,

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By: 

Trial Counsel

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via First Class Mail to: **Jay F. Romano, Esq.**, The Law Offices of Jay F. Romano, P.A., 20423 State Road 7 #F6-203, Boca Rotan, Florida 33498-6797 and **Cheryl A. Cooper, Esq.**, Equal Employment Opportunity Commission, Miami District Office, One Biscayne Tower, Two South Biscayne Blvd., Suite 2700, Miami, Florida 33131-1805 this 18th day of May 2001.


David E. Block, Esq.