

Minute Order Form (06/97)

United States District Court, Northern District of Illinois


Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 C 1160	DATE	5/13/2002
CASE TITLE	Johanna Santiago vs. Leo Pulido		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) Filed motion of [use listing in "Motion" box above.]
- (2) Brief in support of motion due _____.
- (3) Answer brief to motion due _____. Reply to answer brief due _____.
- (4) Ruling/Hearing on _____ set for _____ at _____.
- (5) Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) Trial[set for/re-set for] on _____ at _____.
- (8) [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
 - FRCP4(m) General Rule 21 FRCP41(a)(1) FRCP41(a)(2).
- (10) [Other docket entry] Enter Memorandum Order. To avoid a patchwork pleading that would require resort to more than one responsive pleading to see what is being placed at issue and what is not, the entire Answer and Ads are stricken. Leave is granted to District to file a self-contained amended Answer (including any appropriate Ads) in this Court's chambers, with a copy of course being transmitted to Santiago's counsel, on or before May 24, 2002.
- (11) [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	SN courtroom deputy's initials	U.S. DISTRICT COURT CLERK MAY 13 PM 4:14 Date/time received in central Clerk's Office	number of notices	Document Number 
			MAY 14 2002	
			date docketed	
			docketing deputy initials	
			5/13/2002	
date mailed notice	SN	mailing deputy initials		

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOHANNA SANTIAGO,)	
)	
Plaintiff,)	
)	
v.)	No. 02 C 1160
)	
LEO PULIDO, individually, et al.,)	
)	
Defendants.)	

DOCKETED
MAY 14 2002

MEMORANDUM ORDER

Chicago Park District ("District") has filed its Answer and Affirmative Defenses ("ADs") to the Amended Complaint ("AC") filed by Johanna Santiago ("Santiago") against District and three of its employees, including Leo Pulido ("Pulido"). This memorandum order is issued sua sponte to require the correction of some obvious flaws in that responsive pleading.

To begin with, it is always distressing when any lawyer fails to adhere to clearly-marked-out pleading requirements--and even though this reaction may not have any basis in logic, any such failures on the part of government lawyers are particularly distressing. In this instance, despite the plain and precise teaching of the second sentence of Fed. R. Civ. P. ("Rule") 8(b) as to what a pleader must state to become entitled to the benefit of a deemed denial, District's responsive pleading is instead shot through (Answer ¶¶ 5, 9, 15, 20, 21, 26-29, 46-48 and 57-62) with statements that District "is without sufficient information

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or belief" as to the corresponding allegations of Santiago's AC.¹ All such assertions are stricken, but without prejudice to District's opportunity to replead in those respects.

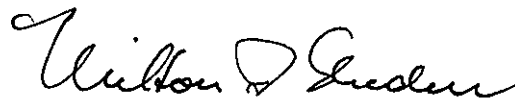
This Court is also troubled by what appears to be District's cavalier use of outright denials of many of Santiago's allegations. For example, AC ¶¶1 and 23 set out in extraordinarily graphic detail (replete with particularized allegations and dates) the asserted conduct of Pulido in allegedly hitting on Santiago in an appalling way. Does District really know that those charges are untrue, so that it can flat out deny them in good conscience, or is it rather opting to believe Pulido in a situation in which only the two protagonists know the real facts? And the same type of question may be posed as to the unvarnished denials of a great many of Santiago's other allegations. As long as District's counsel must return to the drawing board in any event, she should give careful consideration to each responsive paragraph to avoid the rote repetition of outright denials where they are inappropriate.

Finally, each of District's three ADs is problematic and must be either recast or dropped. After all, it is really meaningless to say that a plaintiff may not recover "to the extent" that some defect may exist, without in any way

¹ When phrased in that way, the response implicitly poses the question "sufficient for what?"

identifying how that hypothetical possibility relates to the case at hand. That goes for AD 1 (which speaks in hypothetical terms "to the extent plaintiff did not mitigate her damages"), AD 2 (which is equally hypothetical, speaking in terms of "to the extent plaintiff's claims fail to state a claim upon which relief may be granted") and AD 3 (which also speaks in hypothetical terms "to the extent that Plaintiff did not file her claims within the limitations period"). All three present ADs are therefore stricken, and if District chooses to reassert any AD it must do so in a manner that provides Santiago (and this Court) with real notice of the actual basis for any Rule 8(c) defense.

To avoid a patchwork pleading that would require resort to more than one responsive pleading to see what is being placed at issue and what is not, the entire present Answer and ADs are stricken. Leave is granted to District to file a self-contained amended Answer (including any appropriate ADs) in this Court's chambers, with a copy of course being transmitted to Santiago's counsel, on or before May 24, 2002.



Milton I. Shadur
Senior United States District Judge

Date: May 13, 2002