

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION**

DAVID STEBBINS

PLAINTIFF

v.

CASE NO. 10-3086

WAL-MART STORES, INC.

DEFENDANT

**ANSWER TO PLAINTIFF'S ORIGINAL
COMPLAINT AND AMENDED COMPLAINT**

Defendant Wal-Mart Stores Arkansas, LLC ("Wal-Mart"), erroneously identified as "Wal-Mart Stores, Inc.," by its attorneys, Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C., for its Answer to Plaintiff's Original Complaint [Doc. # 1], and Plaintiff's Amended Complaint [Doc. # 6], states:

1. Wal-Mart admits that Plaintiff seeks to bring this action under the Rehabilitation Act, but Wal-Mart denies that it is a covered entity under the Rehabilitation Act.

2. Wal-Mart admits that job applicants apply for employment by computer and that as part of the application respond to questions posed by a Retail Pre-Employment Assessment. Wal-Mart denies that the Assessment has a disparate impact upon people with Asperger Syndrome.

3. Wal-Mart denies each and every remaining allegation contained in Plaintiff's Complaint [Doc. # 1] and Plaintiff's Amended Complaint [Doc. # 6].

4. Wal-Mart denies any and all allegations made by Plaintiff that are not specifically admitted herein.

5. Wal-Mart denies that Plaintiff is entitled to any relief or damages.

DEFENSES TO PLAINTIFF'S COMPLAINT AND AMENDED COMPLAINT

1. Wal-Mart states affirmatively that Plaintiff's Original Complaint and Amended Complaint do not comply with Federal Rules of Civil Procedure 8(a) and 10(b), and must be dismissed.

2. Wal-Mart states affirmatively that Plaintiff's Original Complaint and Amended Complaint fail to state facts upon which relief can be granted.

3. Wal-Mart states affirmatively that Plaintiff's claims are barred by the applicable statutes of limitations and the doctrine of laches.

4. Wal-Mart states affirmatively, upon information and belief, that Plaintiff has failed to mitigate his alleged damages.

5. Wal-Mart states affirmatively that all actions taken by it related in any way to Plaintiff were made in good faith, and it had reasonable grounds to believe any and all actions taken by it related in any way to Plaintiff were not in violation of any law or statute.

WHEREFORE, Defendant Wal-Mart Stores Arkansas, LLC prays that Plaintiff's Complaint and Amended Complaint be dismissed, that Plaintiff take nothing, and that the Court order Plaintiff to pay Wal-Mart its costs and attorneys' fees associated with this matter.

Respectfully submitted,

/s/ Marshall Ney

Ark. Bar No. 91108

/s/ Kathlyn Graves

Ark. Bar No. 76045

/s/ Jeffrey L. Spillyards

Ark. Bar No. 2004159

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CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2010, I mailed this document by U.S. Mail to the following non CM/ECF participant:

David A. Stebbins
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/s/ Jeffrey L. Spillyards