

SW

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

MAY 20 2003

JAMES W. McCORMACK, CLERK
By: _____
DEPT. CLERK

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
INTERNATIONAL PAPER COMPANY)
)
)
Defendant)
)

CIVIL ACTION NO.
5:03CV0122SWW

AMENDED COMPLAINT
Jury Demand

NATURE OF THE ACTION

This is an action under the Age Discrimination in Employment Act to correct unlawful employment practices on the basis of age and to provide appropriate relief to Jerry Stinnett, Terry Rothwell, Gerald Billingsley, and other applicants in their 50's and above. The Commission alleges that on or about November of 2000, International Paper Company refused to hire Jerry Stinnett, then age 53, Terry Rothwell, then age 57, and Gerald Billingsley, then age 58, and other qualified applicants in their 50's and above because of their age.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 626(b) (the "ADEA"), which incorporates by reference Sections 16(c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§216(c) and 217.

2. The employment practices alleged to be unlawful were committed within the

jurisdiction of the United States District Court for the Eastern District of Arkansas, Pine Bluff Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of the ADEA and is expressly authorized to bring this action by Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat. 2705.

4. At all relevant times, Defendant, International Paper Company (the "Employer"), has continuously been doing business in the State of Arkansas and the city of Pine Bluff and has continuously had at least 20 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).

CONCILIATION

6. Prior to institution of this lawsuit, the Commission's representatives attempted to eliminate the unlawful employment practices alleged below and to effect voluntary compliance with the ADEA through informal methods of conciliation, conference and persuasion within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

STATEMENT OF CLAIMS

7. More than thirty (30) days prior to the institution of this lawsuit, Jerry Stinnett, Terry Rothwell, and Gerald Billingsley filed charges of discrimination with the Commission alleging violations of the ADEA by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. On or about November of 2000, Defendant Employer engaged in unlawful employment practices at its Pine Bluff location, in violation of the ADEA, 29 U.S.C. § 623 (a)(1). These practices included refusing to hire Jerry Stinnett, Terry Rothwell, Gerald Billingsley, and other qualified applicants in their 50's and above because of their age.

9. Jerry Stinnett, Terry Rothwell, Gerald Billingsley, and other qualified employees in their 50's and above were employed as General Mechanics at defendant's Camden Arkansas facility. When the Camden facility was closing, the General Mechanics, by agreement with the Union, could apply for General Mechanic positions at defendant's other facilities.

10. Jerry Stinnett, Terry Rothwell, Gerald Billingsley, and other General Mechanics applied for General Mechanic positions at defendant's Pine Bluff facility. Defendant failed to hire Jerry Stinnett, Terry Rothwell, Gerald Billingsley and other qualified General Mechanics in their 50's and above.

11. The effect of the practices complained of in paragraph(s) 8 above has been to deprive Jerry Stinnett, Terry Rothwell, Gerald Billingsley, and other qualified applicants in their 50's and above of equal employment opportunities and otherwise adversely affect their status as employees, because of their age.

12. The unlawful employment practices complained of in paragraph 8 above were

[and are] willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in termination and any other employment practice which discriminates on the basis of age against individuals 40 years of age and older.

B. Order Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities for individuals 40 years of age and older, and which eradicate the effects of its past and present unlawful employment practices.

C. Grant a judgment requiring Defendant Employer to pay appropriate back wages in an amount to be determined at trial, an equal sum as liquidated damages, and prejudgment interest to individuals whose wages are being unlawfully withheld as a result of the acts complained of above, including but not limited to Jerry Stinnett, Terry Rothwell, Gerald Billingsley, and other qualified applicants in their 50's and above who were not hired because of their age.

D. Order Defendant Employer to make whole all individuals adversely affected by the unlawful practices described above, by providing the affirmative relief necessary to eradicate the effects of its unlawful practices, including but not limited to backpay with interest from the date of Defendant Employer's refusal to hire Jerry Stinnett, Terry Rothwell, Gerald Billingsley, and other qualified applicants in their 50's and above; life insurance; 401K benefits and other

benefits; rightful-place hiring; and/or front pay.

E. Grant such further relief as the Court deems necessary and proper in the public interest.

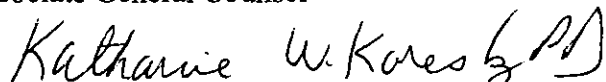
F. Award the Commission its costs of this action.


JURY TRIAL DEMAND

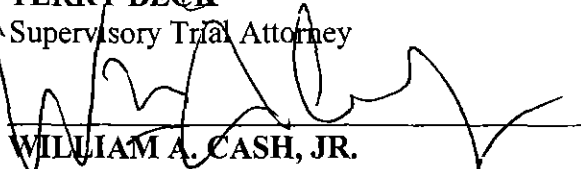
The Commission requests a jury trial on all questions of fact raised by its complaint.


NICHOLAS INZEO
Acting Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel


KATHARINE W. KORES
Regional Attorney


TERRY BECK
Supervisory Trial Attorney


WILLIAM A. CASH, JR.
Senior Trial Attorney
AR #88081


PAMELA B. DIXON
Senior Trial Attorney
AR # 95085

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Little Rock Area Office
820 Louisiana, Suite 200
Little Rock, Arkansas 72201
Telephone: (501) 324-5065