

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

v.)

I.G. BURTON OF SEAFORD, LLC, A)
SUBSIDIARY OF I.G. BURTON &)
COMPANY, INC.,)

Defendant.)

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL 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 Blair McMasters and a class of similarly situated individuals aggrieved by those unlawful practices. As alleged with greater particularity in Paragraphs 7(a) through (c) below, the Commission alleges that Defendant terminated Mr. McMasters, then age 75, and a class of similarly-situated individuals in the protected age group, from their positions as Runners, based on their age(s). As a result of the discriminatory practices, Mr. McMasters and the class members suffered backpay and front pay losses.

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

“FSLA”), as amended, 29 U.S.C. §§ 216(c) and 217.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the District Court for the District of Delaware.

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 I.G. Burton of Seaford, LLC, a subsidiary of I.G. Burton & Company, Inc. (the “Employer”), a Delaware corporation, has continuously been doing business in the State of Delaware and the Cities of Seaford and Milford, 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 the 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. Since at least January 1, 2002, the Defendant Employer has engaged in unlawful employment practices at its facilities in Seaford, Delaware and Milford, Delaware, in violation of § 4(a)(1) of the ADEA, 29 U.S.C. § 623(a)(1) as follows:

(a) Blair McMasters began working for Defendant Employer as a "Runner", on July 1, 2003. Defendant Employer employed Runners, whose duties included driving its vehicles and delivering them to designated areas, and picking up cars from customers for service or repairs. Mr. McMaster's duties also included driving to department of motor vehicles offices to drop off title applications and return them to the dealership. Mr. McMasters had a good driving record and satisfactorily performed the duties of his position.

(b) Defendant Employer has a policy of terminating Runners on or before they turn seventy-five (75) years of age. On February 24, 2005, Defendant Employer's Office Manager, Paula Fisher, asked Mr. McMasters for the date of his next birthday. He told her it was on March 3, 2005, and that he would be 75 years old. Defendant Employer terminated Mr. McMasters one week later, on the day before his 75th birthday.

(c) Defendant Employer terminated a class of similarly-situated Runners on or shortly before their 75th birthday on the basis of age. Upon information and belief, these class members were advised by Defendant Employer that they would be terminated from their Runner positions immediately prior to their seventy-fifth (75th) birthday(s) because of their age(s).

8. The effect of the practices complained of in Paragraphs 7(a) through (c) above has been to deprive Blair McMasters and a class of similarly-situated individuals of equal employment opportunities and otherwise adversely affect their status as employees because of age.

9. The unlawful employment practices complained of in Paragraphs 7(a) through (c) 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 the Defendant, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in terminations based on age, and any other employment practice which discriminates against individuals 40 years of age and older.
- B. Order the Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities for individuals age 40 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, and an equal sum as liquidated damages, and prejudgment interest to Blair McMasters and a class of similarly situated individuals, whose wages are being unlawfully withheld as a result of the acts complained of above.
- 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 the reinstatement of Blair McMasters and the class members, or frontpay in lieu thereof if reinstatement is not feasible.
- E. Grant such further relief as the Court deems necessary and proper in the public interest.
- F. Award the Commission its costs in this action.

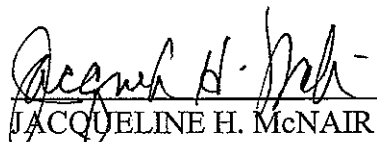
JURY TRIAL DEMAND


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

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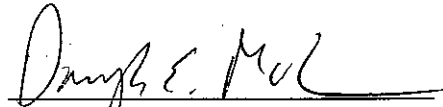

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