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FILED  
U.S. DIST. COURT  
SAVANNAH DIV.

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

DEC 15 15 PM '98  
CLERK: *B. J. T.*  
SO. DIST. OF GA.

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
NEW ENGLAND MUTUAL LIFE )  
INSURANCE COMPANY, )  
 )  
Defendant. )

CIVIL ACTION NO.  
COMPLAINT  
JURY TRIAL  
DEMAND  
CV 498 - 275

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 Thomas Madison and similarly situated individuals adversely affected by Defendant's mandatory retirement practice and or policy, including individuals whose employment was terminated as well as those not hired because of their age. The Commission alleges that Defendant has a policy and/or practice that requires general agents to retire on the April first following their sixty-fifth birthday. The Commission alleges that Defendant's mandatory retirement policy violates the Age

Discrimination in Employment Act by terminating the employment of individuals in the protected age group and preventing the hiring of individuals in the protected age group 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 § 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621, et seq. (the "ADEA") which incorporates by reference §§ 16(c) and 17 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 216(c) and 217.

2. The unlawful employment practices alleged below were and are now being committed within the jurisdiction of the United States District Court for the Southern District of Georgia, Savannah Division.

### **PARTIES**

3. Plaintiff, Equal Employment Opportunity Commission (the "Commission"), is an 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 § 7(b) of the ADEA, 29 U.S.C. § 626(b), as

amended by § 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and Public Law 98-532 (1984), 98 Stat. 2705.

4. At all relevant times Defendant, New England Mutual Life Insurance Company, (the "Employer"), has continuously been a corporation, doing business in the State of Georgia and the City of Savannah, and has continuously had at least twenty employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of § 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 § 7(b) of the ADEA, 29 U.S.C. § 626(b).

### **STATEMENT OF CLAIMS**

7. Since at least April 22, 1994, Defendant Employer has engaged in

unlawful employment practices at its Savannah, Georgia facility in violation of §§ 4(a) of the ADEA, 29 U.S.C. § 623(a) by maintaining a mandatory retirement policy which terminated the employment of Thomas Madison age 65 years old, and other similarly situated individuals, and by not hiring persons approaching the mandatory retirement age.

8. The effect of the practices complained of above has been to deprive Thomas Madison and other similarly situated individuals of equal employment opportunities and otherwise adversely affect their status as employees because of age.

**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 use of a mandatory retirement policy and or practice and any other employment practice which discriminates because of age against individuals forty 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 who are at least age 40, 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 proved at trial, and 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 Thomas Madison and other similarly situated individuals adversely affected by Defendant's mandatory retirement policy.

D. Order the Defendant Employer to make whole individuals adversely affected by the unlawful practices described above, by providing the affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to rightful-place reinstatement and hiring of Thomas Madison and similarly situated individuals.

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

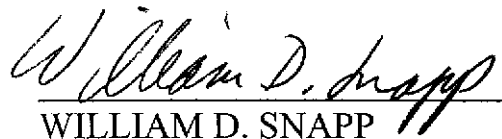
F. Award the Commission its costs in this action.

**JURY TRIAL DEMAND**

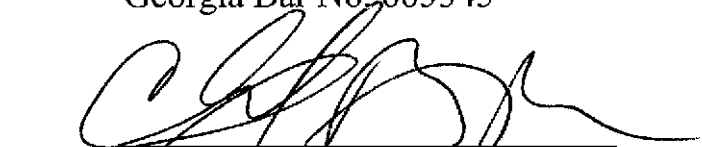
The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

C. GREGORY STEWART  
General Counsel

  
WILLIAM D. SNAPP

Regional Attorney  
Georgia Bar No. 665345



CHARLES T. BELL, JR.  
Supervisory Trial Attorney  
Georgia Bar No. 047649

  
JAMES D. MACY

Senior Trial Attorney  
Georgia Bar No. 464825

U. S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
100 Alabama Street, SW  
Suite 4R30

Atlanta, Georgia 30303  
404-562-6817/404-562-6932