

FAX 09/14/05

A. LUIS LUCERO, JR., REGIONAL ATTORNEY
KATHRYN OLSON, SUPERVISORY TRIAL ATTORNEY
TERI HEALY, SENIOR TRIAL ATTORNEY
TERI.HEALY@EEOC.GOV
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
909 FIRST AVENUE, SUITE 400
SEATTLE, WASHINGTON 98104
TELEPHONE: (206) 220-6916
FACSIMILE: (206) 220-6911

U.S. COURTS

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CAMERON S. BURKE,
CLERK IDAHO

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
vs.)
)
KIMBALL INTERNATIONAL, INC., dba)
FLEXCEL,)
)
Defendant.)

CIV05-371-S-LMB
Case No. _____
COMPLAINT
JURY DEMAND

NATURE OF THE ACTION

This is an action under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. section 621 *et seq.* ("ADEA"), to correct unlawful employment practices on the basis of age and to provide appropriate relief to Robert Zychek. The Equal Employment Opportunity Commission ("EEOC") alleges that Kimball International,

Inc., doing business as Flexcel ("defendant"), discriminated against Mr. Zychek because of his age, including terminating him in April 2003.

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 ADEA, 29 U.S.C. § 626(b), 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 District of Idaho.

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 (or the "employer") has continuously been a corporation doing business in the State of Idaho and has continuously had at least 20 employees.

5. At all relevant times, defendant 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).

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. The defendant engaged in unlawful employment practices at its Post Falls, Idaho facility, in violation of Section 4(a)(1) of the ADEA, 29 U.S.C. § 623(a)(1), including terminating Mr. Zychek on or about April 25, 2003, because of his age, then 59.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Mr. Zychek of equal employment opportunities and otherwise adversely affect his status as an employee because of his age.

9. The unlawful employment practices complained of in paragraphs 7 and 8 above were 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, its officers, successors, assigns and all persons in active concert or participation with it, from terminating

individuals because of their age, and from committing any other employment practice which discriminates on the basis of age against individuals 40 years of age and older.

B. Order defendant 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 to pay appropriate back wages in an amount to be determined at trial, and an equal sum as liquidated damages, and prejudgment interest to Mr. Zychek, whose wages are being unlawfully withheld as a result of the acts complained of above.

D. Order defendant to make whole Mr. Zychek, who is 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 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.

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JURY TRIAL DEMAND

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

DATED this 14th day of September, 2005

A. LUIS LUCERO, JR.
Regional Attorney
KATHRYN OLSON
Supervisory Trial Attorney
TERI HEALY
Senior Trial Attorney

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

BY: 
EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Seattle District Office
909 First Avenue, Suite 400
Seattle, WA 98104
(206) 220-6916

Office of the General Counsel
1801 "L" Street NW
Washington, D.C. 20507

Attorneys for Plaintiff