

ORIGINAL

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN - SOUTHERN DIVISION

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EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,

Plaintiff,

and

JAMES B. THORNDILL,

Plaintiff-Intervenor

v.

PASCAL COMPANY, INC.,

Defendant.

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Case No. 1:03-CV-0442

Honorable Richard Alan Enslin

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Adele Rapport (P44833)  
Stanley Pitts (P33519)  
E.E.O.C. DETROIT DISTRICT OFFICE  
Attorney for Plaintiff  
477 Michigan Avenue, Room 865  
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DREW, COOPER & ANDING  
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125 Ottawa Avenue NW, Suite 300  
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(616) 454-8300

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**COMPLAINT IN INTERVENTION AND JURY DEMAND**

Intervening Plaintiff James B. Thorndill, by and through his attorneys, DREW, COOPER & ANDING, by Stephen R. Drew, files this Complaint in Intervention and hereby states that this is an action under the Elliott-Larsen Civil Rights Act ("ELCRA") to address Intervening Plaintiff James Thorndill's claims against Defendant Pascal Company regarding age-based discrimination.

## JURISDICTION

1. This Court's supplemental jurisdiction is invoked pursuant to 28 U.S.C. § 1367. This action is authorized and instituted pursuant to the Elliott-Larsen Civil Rights Act, M.C.L. 37.2102 et seq.; M.S.A. 3.548(101) et seq. This is an action seeking declaratory and injunctive relief and money damages against Defendant Pascal Company, Inc., for purposeful discrimination, in violation of the foregoing statutes.
2. This court has jurisdiction pursuant to 28 U.S.C. § 1367 and 28 U.S.C. § 1343. Jurisdiction for declaratory relief is based on 28 U.S.C. § § 2201 and 2202.
3. The unlawful and/or discriminatory employment practices alleged below were and are being committed within the Western District of the State of Michigan. Venue is proper therein, pursuant to 28 U.S.C. § 1391.

## PARTIES

4. Intervening Plaintiff James B. Thorndill, (hereinafter "Intervening Plaintiff") is a 54 year old male, born on February 20, 1949, a citizen of the United States, a resident of the State of Michigan within the Western District of Michigan, and was at all relevant times an employee of Defendant Pascal Company, Inc.
5. Defendant Pascal Company, Inc. (hereinafter "Pascal") is a corporation conducting business in the State of Michigan, within the Western District of Michigan.

## STATEMENT OF FACTS, CLAIMS AND VIOLATIONS

6. Intervening Plaintiff James Thorndill became a member of Defendant Pascal Company's Sales Department effective June 15, 1992.
7. Intervening Plaintiff eventually was promoted to the position of National Sales Account Manager. In addition to Intervening Plaintiff's territory management responsibilities, Intervening Plaintiff successfully managed several corporate accounts for Defendant Pascal.
8. By calendar year 2001, Intervening Plaintiff had been employed by Defendant Pascal for 9 years and had accumulated over 20 years of sales experience.
9. On or about October 1, 2001, Intervening Plaintiff's employment with Defendant Pascal was terminated, while younger sales representatives with less experience and less seniority were allowed to continue working at Defendant Pascal.
10. Intervening Plaintiff's termination was part of a pattern and/or practice of age-based discriminatory hiring and firing practices that was condoned and/or tolerated by Defendant Pascal Company, Inc. and/or management personnel within Defendant Pascal.
11. The following negative aged-based comments and/or references have been made by management personnel within Defendant Pascal Company:
  - a. ". . . . Anyway, I am sure ready for 2002! It's starting up much better already! We did find a young man for the Chicago/Milwaukee territory. . . . a 24-year old pharmaceutical rep. . . . I just love the energy and enthusiasm of young people who want to work instead of oldies who want a free ride. . . .";
  - b. "Old fu--in' jew";
  - c. "Old g--damn sandscratcher";

- d. "Too old to carry their bags on the street";
  - e. "When you are too old to carry the bags, you just can't do it anymore";
  - f. "Older people don't work as hard";
  - g. "We need young guns";
  - h. "Older people drive the cost of insurance up";
  - i. "You are acting so old";
  - j. "You are the new way of doing business." [This comment was made to an employee under 50 years of age after an employee over 50 years of age was terminated.]
19. The unlawful employment practices complained of above were intentional and/or done with malice and/or reckless indifference to the protected rights of Intervening Plaintiff.
20. Intervening Plaintiff James Thorndill, as a result of Defendant's aforementioned acts and/or omissions, has undergone mental and financial distress and hardship and/or loss of income and benefits.
21. The aforementioned actions of Defendant Pascal Company, Inc. complained of in the aforementioned paragraphs, have been to deprive the Intervening Plaintiff of wages, loss of income and other employment benefits, including but not limited to prospective retirement benefits, hospitalization and other insurance coverage, holiday and vacation pay, social security insurance, training opportunity and other promotional benefits and other fringe benefits of said employment, and have additionally subjected the Intervening Plaintiff to humiliation and/or embarrassment, considerable mental and financial distress, and hardship.

**STATE LAW CLAIMS (SUPPLEMENTAL JURISDICTION)**

**COUNT I**  
**DISCRIMINATION**  
**ELLIOTT-LARSEN CIVIL RIGHTS ACT**

22. Intervening Plaintiff realleges and reaffirms the aforementioned paragraphs with the same force and effect as if set forth herein.
23. The aforementioned acts by Defendant Pascal Company, Inc., through its employees, agents, managers and/or assigns, constitute discrimination against the Intervening Plaintiff regarding the terms and conditions of his employment on the basis of his age, and on that basis were performed intentionally and in a discriminatory manner as compared to other similarly situated younger employees. By said acts, Defendants have violated Michigan Common and/or Statutory Law, including specifically the Elliott-Larsen Civil Rights Act, M.C.L. 37.2102 et seq.; M.S.A. 3.548(101) et seq.

**DAMAGES**

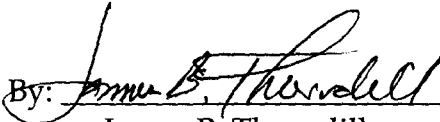
19. Intervening Plaintiff realleges and reaffirms the aforementioned paragraphs with the same force and effect as if set forth herein.
20. The effects of the actions and inactions of Defendants complained of in the foregoing paragraphs have been to deprive the Intervening Plaintiff of wages, past and prospective, income and other employment benefits, including but not limited to prospective retirement benefits, holiday and vacation pay, training opportunity and other promotional and fringe benefits of said employment, and have additionally subjected the Intervening Plaintiff to mental and financial

distress and anxiety, loss of job satisfaction, loss of self-esteem, humiliation and embarrassment, and/or other damages known or unknown.

**WHEREFORE**, the Intervening Plaintiff James B. Thorndill seeks all appropriate damages arising out of law, equity and fact for each or all of the above causes of action, where applicable, and hereby requests the trier of fact, be it judge or jury, to award to the Intervening Plaintiff all applicable damages, including but not limited to compensatory and/or exemplary and all other relief arising out of law, equity, and fact also including but not limited to:

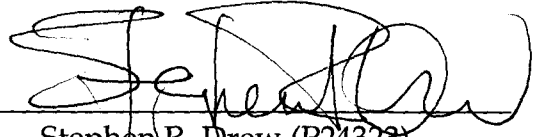
- a. Placement of Intervening Plaintiff James Thorndill in the position he would have been performing, absent Defendant Anderson Pattern's discriminatory action and/or inaction, with all accruals and all appropriate injunctive relief and any other relief that this Court and/or finder of fact deems proper, just and equitable;
- b. Compensatory damages in the form of past and future losses, including but not limited to training opportunities, promotional benefits, applicable seniority, raises and/or other conditions of employment, and for mental and emotional distress related to said actions; in the amount of **\$750,000.00 (SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS)**, or other amount as the jury and/or trier of fact deems appropriate, equitable and just under the circumstances;
- c. Exemplary damages against Defendants in the amount of **\$750,000.00 (SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS)**, or other amount as the jury and/or trier of fact deems appropriate, equitable and just under the circumstances;
- d. Such other relief as may be applicable according to statutory and common law, including interest, costs and attorney fees.

Dated: August 21, 2003

By:   
James B. Thorndill

DREW, COOPER & ANDING  
Attorneys for Intervening Plaintiff

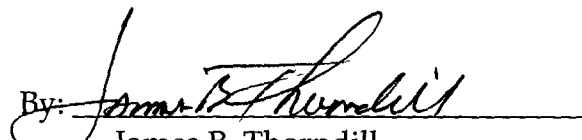
Dated: August 21, 2003

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**JURY DEMAND**

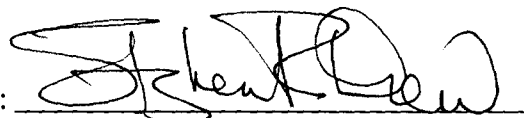
Intervening Plaintiff James B. Thorndill demands a jury on all claims set forth above.

Dated: August 21, 2003

By:   
James B. Thorndill

DREW, COOPER & ANDING  
Attorneys for Intervening Plaintiff

Dated: August 21, 2003

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