

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

EQUAL EMPLOYMENT OPPORTUNITY)
 COMMISSION,)
)
 Plaintiff,)
)
 v.)
)
 AMERICA'S BEST CONTACTS &)
 EYEGASSES, INC.,)
)
 Defendant.)
 _____)

CIVIL ACTION NO.
 06cv3731
 MJDIAJB
COMPLAINT
JURY TRIAL DEMANDED

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 Gloria Orth, whom Defendant America's Best Contacts & Eyeglasses subjected to differential discipline, denied full-time employment, subjected to different terms and conditions of employment, and discharged because of her age in violation of the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 626(b), et seq.

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 District of Minnesota.

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, America's Best Contacts and Eyeglasses (the "Employer"), has continuously been doing business in the State of Minnesota and the City of Roseville, 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. Since at least 2004, the Defendant engaged in unlawful employment practices at its

Roseville, Minnesota facility, in violation of Section 4(a) of the ADEA, 29 U.S.C. § 623(a). These practices include subjecting Gloria Orth to differential discipline, denial of full-time employment, different terms and conditions of employment, and discharge because of her age, 49.

8. The effect of the practices complained of in paragraph(s) above has been to deprive Gloria Orth of equal employment opportunities and otherwise adversely affect status as an employee, because of her age.

9. The unlawful employment practices complained of in the paragraphs above were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

JURY TRIAL DEMAND

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

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant America's Best Contacts & Eyeglasses, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in promotion, assignment, discharge, terms and conditions of employment and any other employment practice which discriminates on the basis of age against individuals 40 years of age and older.

B. Order Defendant America's Best Contacts & Eyeglasses 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 America's Best Contacts & Eyeglasses 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 Gloria Orth.

D. Order Defendant America's Best Contacts & Eyeglasses 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 reinstatement of Gloria Orth to a full-time position.

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.

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

RONALD S. COOPER
General Counsel

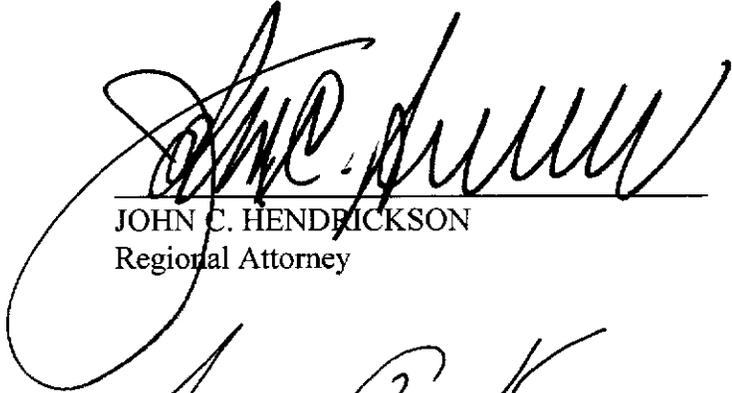
JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

1801 L Street, N.W.
Washington, DC 20507

Dated:

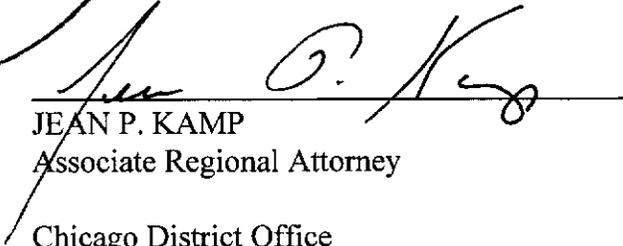
8/30/2006



JOHN C. HENDRICKSON
Regional Attorney

Dated:

8-31-06



JEAN P. KAMP
Associate Regional Attorney

Chicago District Office
500 West Madison Street, Suite 2800
Chicago, IL 60661
(312) 353-8550

Dated:

9/14/06



LAURIE A. VASICHEK (#0171438)
Senior Trial Attorney

Minneapolis Area Office
330 Second Avenue South, Suite 430
Minneapolis, MN 55401
(612) 335-4061
laurie.vasichek@eeoc.gov