

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Verne A. Hall, et al.,	)	
	)	Civil No. 04-4812 MJD/JGL
Plaintiffs,	)	
	)	
vs.	)	<b>DEFENDANTS’</b>
	)	<b>MOTION TO DISMISS COUNT THREE</b>
Best Buy Co., Inc. and Best Buy Enterprise Services, Inc.	)	<b>OF PLAINTIFFS’ AMENDED</b>
	)	<b>COMPLAINT</b>
Defendants.	)	
	)	<b>ORAL ARGUMENT REQUESTED</b>
	)	

Defendants Best Buy Co., Inc. and Best Buy Enterprise Services, Inc. respectfully request that this Court dismiss Count Three of plaintiffs’ Amended Complaint because plaintiffs lack standing to sue under the Older Workers Benefit Protection Act, 29 U.S.C. § 626(f). Plaintiffs lack standing because none of the named plaintiffs signed waivers releasing Best Buy from liability under the Age Discrimination in Employment Act. Indeed, plaintiffs’ Amended Complaint fails even to allege that any of the named plaintiffs signed such waivers. As such, plaintiffs have not suffered a personal “injury in fact,” as required by such cases as *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).

For this reason, and as shown more fully in the accompanying Memorandum, this Court should dismiss Count Three of plaintiffs' Amended Complaint.

Dated: January 10, 2005.

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

By: s/ Joel A. Mintzer  
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