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FEDERAL DISTRICT COURT
DISTRICT OF NEVADA

BY: **HZ** DEPUTY

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8 UNITED STATES
9 DISTRICT

CV-S-04-1352-HDM-LRL

10 U.S. EQUAL EMPLOYMENT)
11 OPPORTUNITY COMMISSION,)
12 Plaintiff,)
13 v.)
14 REPUBLIC SERVICES, INC. and DOES)
1-10, Inclusive.)
15 Defendants.)
16 _____)

**COMPLAINT - CIVIL RIGHTS
EMPLOYMENT DISCRIMINATION**

Age Discrimination in Employment Act of
1967, as amended,
29 U.S.C. § 621 *et seq.*

DEMAND FOR TRIAL BY JURY

18 NATURE OF THE ACTION

19 This is an employment discrimination action brought by the United States Equal
20 Employment Opportunity Commission ("EEOC") under the Age Discrimination in Employment
21 Act of 1967, as amended, 29 U.S.C. §§ 621 *et seq.*, (the "ADEA"), to correct unlawful
22 employment practices and to provide relief to the persons who were terminated from
23 employment with Defendant Republic Services, Inc. and/or denied the opportunity to transfer on
24 the basis of their age, forty (40) or above. The EEOC alleges that the Defendants Republic
25 Services, Inc. and Does 1-10 (collectively "Defendants") terminated and/or denied the
26 opportunity to transfer to employees over age forty (40) on the basis of their ages, in violation of
27 the ADEA.

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1 JURISDICTION AND VENUE

2 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. sections 451, 1331,
3 1337, 1343 and 1345. This action is authorized and instituted pursuant to section 7(b) of the
4 ADEA, 29 U.S.C. § 626(b), which incorporates by reference sections 16(c) and 17 of the Fair
5 Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 216(c) and 217.

6 2. The employment practices alleged herein to be unlawful were committed within
7 the jurisdiction of the United States District Court for the District of Nevada, Southern Division.

8 PARTIES

9 3. Plaintiff EEOC is an agency of the United States of America charged with the
10 administration, interpretation and enforcement of ADEA and is expressly authorized to bring this
11 action under § 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by section 2 of Reorganization
12 Plan No. 1 of 1978, 92 Stat. 3781 and by Public Law 98-532 (1984) 98 Stat. 2705.

13 4. Plaintiff is ignorant of the true names and capacities of Defendants sued as DOES
14 1 through 10, inclusive, herein and therefore Plaintiff sues said Defendants by such fictitious
15 names. Plaintiff reserves the right to amend the complaint to name the DOE defendants
16 individually or corporately as they become known. Plaintiff alleges that each of the Defendants
17 named as DOES was in some manner responsible for the acts and omissions alleged herein and
18 Plaintiff will amend the complaint to allege such responsibility when same shall have been
19 ascertained by Plaintiff.

20 5. All of the acts and failures to act alleged herein were duly performed by and
21 attributable to all Defendants, each acting as a successor, agent, joint employer, integrated
22 enterprise, employee and/or under the direction and control of the other Defendants, except as
23 otherwise specifically alleged. Said acts and failures to act were within the scope of such agency
24 and/or employment, and each Defendant participated in, approved and/or ratified the unlawful
25 acts and omissions by other Defendants complained of herein. Whenever and wherever reference
26 is made in this Complaint to any act by a Defendant or Defendants, such allegations and
27 reference shall also be deemed to mean the acts and failures to act of each Defendant acting
28 individually, jointly, and/or severally.

1 6. At all relevant times, Defendant Republic Services, Inc. has continuously been
2 doing business in Clark County in the State of Nevada. Defendants have continuously employed
3 twenty (20) or more employees.

4 7. At all relevant times, Defendant has continuously been an employer engaged in an
5 industry affecting commerce within the meaning of §§ 2000e-1(b), (g) and (h) and §§ 11(b), (g),
6 and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).

7 8. It is further alleged on information and belief that the unnamed Defendants in the
8 complaint are alter egos, joint employers, and/or integrated enterprises of Defendant Republic
9 Services, Inc.

10 STATEMENT OF CLAIMS

11 9. All conditions precedent to the institution of this lawsuit have been fulfilled.
12 More than thirty (30) days prior to the institution of this lawsuit, Robert LaRocca and William
13 Lacy filed charges of discrimination with the EEOC alleging violations of the ADEA by
14 Defendants. The Commission issued Letters of Determination finding that Defendant
15 discriminated against its employees by terminating them and/or denying them the opportunity to
16 transfer based on their age (over forty), in violation of the ADEA.

17 10. Prior to this lawsuit, the EEOC attempted to eliminate the unlawful employment
18 practices alleged below and to effect voluntary compliance with ADEA through informal
19 methods of conciliation, conference and persuasion within the meaning of section 7(b) of the
20 ADEA, 29 U.S.C. § 626(b).

21 11. Since at least in or about 2001, Defendant has engaged in unlawful employment
22 practices at its facilities in Sloan, Cheyenne, and/or Henderson, Nevada in violation of the
23 ADEA. The unlawful employment practices include Defendants' termination of and/or denial of
24 the opportunity to transfer to Mr. LaRocca, Mr. Lacy, and other similarly situated persons who
25 were age forty (40) or above at the time Defendant terminated them. The EEOC does not seek
26 relief on behalf of Mr. LaRocca or Mr. Lacy.

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1 12. The effect of the practices complained of above in paragraphs 11 has been to
2 deprive equal employment opportunities to persons who were age forty (40) or above at the time
3 Defendants terminated them.

4 13. The unlawful employment practices complained of above were and are willful
5 within the meaning of section 7(b) of the ADEA, 29 U.S.C. § 626(b).

6 PRAYER FOR RELIEF

7 Wherefore, the Commission respectfully requests that this Court:

8 A. Grant a permanent injunction enjoining Defendants, and their officers, successors,
9 assigns and all persons in active concert or participation with them, from engaging in any
10 employment practices which discriminate on the basis of age;

11 B. Order Defendants to institute and carry out policies, practices and programs which
12 provide equal employment opportunities for persons forty (40) years of age and older, and which
13 eradicate the effects of their past and present unlawful employment practices;

14 C. Grant a judgment requiring Defendants to pay persons on whose behalf the EEOC
15 seeks relief who were over age forty (40) when they were terminated by and/or denied the
16 opportunity to transfer by Defendants the appropriate back pay, front pay and benefits in an
17 amount to be determined at trial, an equal sum as liquidated damages, and prejudgment interest
18 on the lost pay and benefits;

19 D. Order Defendants to make whole persons who were over age forty (40) when they
20 were terminated and/or denied the opportunity to transfer by Defendants by providing affirmative
21 relief necessary to eradicate the effects of its unlawful practices including, but not limited to,
22 rightful employment with seniority restored;

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

25 F. Award the Commission its costs in this action.

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JURY DEMAND

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

Dated: September 29, 2004

Respectfully Submitted,

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