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8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 U.S. EQUAL EMPLOYMENT)
11 OPPORTUNITY COMMISSION,)

12 Plaintiff,)

13 v.)

14 REPUBLIC SERVICES, INC., REPUBLIC)
SILVER STATE DISPOSAL, INC., and)
15 DOES 1-10, Inclusive.)

16 Defendants.)
17

CASE NO. CV-S-04-1352-HDM-LRL

**FIRST AMENDED 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
19 NATURE OF THE ACTION

20 This is an employment discrimination action brought by the United States Equal
21 Employment Opportunity Commission ("EEOC") under the Age Discrimination in Employment
22 Act of 1967, as amended, 29 U.S.C. §§ 621 *et seq.*, (the "ADEA"), to correct unlawful
23 employment practices and to provide relief to the persons who were terminated from
24 employment with defendants Republic Services, Inc. and/or Republic Silver State Disposal, Inc.
25 and/or denied the opportunity to transfer on the basis of their age, forty (40) or above. The
26 EEOC alleges that the defendants Republic Services, Inc., Republic Silver State Disposal, Inc.,
27 and Does 1-10 (collectively "Defendants") terminated and/or denied the opportunity to transfer to
28 employees over age forty (40) on the basis of their ages, in violation of 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 1
14 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 reference
27 shall also be deemed to mean the acts and failures to act of each defendant acting individually,
28 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 and continuously employed twenty (20) or
3 more employees.

4 7. At all relevant times, defendant Republic Silver State Disposal, Inc. has
5 continuously been doing business in Clark County in the State of Nevada and continuously
6 employed twenty (20) or more employees.

7 8. At all relevant times, Defendants have continuously been an employer(s) engaged
8 in an industry affecting commerce within the meaning of §§ 2000e-1(b), (g) and (h) and §§ 11(b),
9 (g), and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).

10 9. It is further alleged on information and belief that the unnamed Defendants in the
11 complaint are alter egos, joint employers, and/or integrated enterprises of defendants Republic
12 Services, Inc. and Republic Silver State Disposal, Inc.

13 STATEMENT OF CLAIMS

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

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

24 12. Since at least in or about 2001, Defendants have engaged in unlawful employment
25 practices at its facilities in Sloan, Cheyenne, and/or Henderson, Nevada in violation of the
26 ADEA. The unlawful employment practices include Defendants' termination of and/or denial of
27 the opportunity to transfer to Mr. LaRocca, Mr. Lacy, and other similarly situated persons who

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1 were age forty (40) or above at the time Defendant terminated them. The EEOC does not seek
2 relief on behalf of Mr. LaRocca or Mr. Lacy.

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

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

8 PRAYER FOR RELIEF

9 Wherefore, the Commission respectfully requests that this Court:

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

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

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

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

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

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

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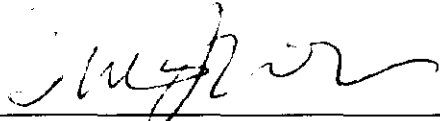
JURY DEMAND

The Commission requests a jury trial on all questions of fact raised by this First Amended Complaint.

Dated: November 19, 2004

Respectfully Submitted,

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

BY: 
SUE J. NOE
Trial Attorney

Attorney for Plaintiff EEOC

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