

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

Dreyfus Service Corporation ,

Defendant.

CV 02-5194

CIVIL ACTION NO.

COMPLAINT
JURY TRIAL DEMAND

RECEIVED
U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
SEP 26 2002
HURLEY J.
ORENSTEIN, M.J.

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 Kevin Allen, Richard Fisherman and other similarly situated employees in the Sales Department at Dreyfus Service Corporation. Allen, age 60 and Fisherman, age 59, as well as several other employees, see Exhibit A, age 40 and older were terminated from their positions in August 1999 because of their age.

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 Section 16(c) of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. § 216(c).

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Eastern District of New York

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, Dreyfus Service Corporation, has continuously been doing business in the State of New York and Nassau County, 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. On or about August 2, 1999, Defendant Dreyfus Service Corporation, engaged in unlawful employment practices at its Nassau County Facility in violation of the ADEA, 29 U.S.C. ¶ 623 by terminating the employment of Kevin Allen (age 60), Richard Fisherman (age 59) and other similarly situated individuals in the Sales Department age 40 and over because of their age.

8. On or about August 2, 1999, Defendant Dreyfus Service Corporation engaged in a reduction in force in the Sales Department allegedly due to a drop in sales call volume. Kevin Allen (age 60), Richard Fisherman (age 59), Manuella Gilmore (age 68) and Jane Ryan (age 41) were selected for termination as part of the reduction in force. Each of these individuals had been employed by Dreyfus Services Corporation for at least nine years and prior to the reduction in force performed their job in a satisfactory manner.

9. Several months prior to August 2, 1999, Defendant Dreyfus Service Corporation had transferred five individual, all under the age of 30, into the Sales Department. These five individuals were exempt from the reduction in force on August 2, 1999 and remained employed in the Sales Department. The Defendant Dreyfus Service Corporation was aware of the drop in sales call volume prior to the time that these younger individuals were transferred into the Sales Department.

10. The effect of the practices complained of in paragraphs 7 through 9 above has been to deprive Kevin Allen, Richard Fisherman and other employees identified on Exhibit A of equal employment opportunities and otherwise adversely affect their status as employees because of their age.

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

PRAAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant employer, its officers, successors, assigns and all persons in active concert or participation with it, from discriminating against employees age 40 and over on the basis of age and any other employment practice which

discriminates on the basis of age against individuals 40 years of age and older.

B. Order Defendant employer 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 employer to pay appropriate back wages in an amount to be determined at trial, and an equal sum as liquidated damages, or prejudgment interest in lieu thereof, to individuals whose wages are being unlawfully withheld as a result of the acts complained of above, including but not limited to Kevin Allen, Richard Fisherman and other similarly situated employees age 40 and older from the Sales Department.

D. Order Defendant employer 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 Kevin Allen, Richard Fisherman and other similarly situated employees age 40 and older from the Sales Department

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.


JURY TRIAL DEMAND

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

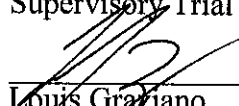
Respectfully submitted,
Gwendolyn Y. Reams
Acting Deputy General Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

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Exhibit A

Kevin Allen

Richard Fisherman

Manuella Gilmore

Jane Ryan