

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CV-02 3149

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

PAPILLON SALONS & CO., INC.
a/k/a PAPILLON HAIR SALON & SPA, INC. }
a/k/a PAPILLON SPAS, INC. }
a/k/a PAPILLON HAIR SALON }
& SPA, II, INC. }

Defendant.

(S.I.)

CIVIL ACTION NO.

02CIV.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ MAY 29 2002 ★

LONG ISLAND OFFICE

COMPLAINT AND
JURY TRIAL DEMANDED

PLATT, J.

LINDSAY, M.

NATURE OF THE ACTION

This is an action under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621, *et seq.* (the "ADEA"), which incorporates by reference Sections 16(c) and Section 17 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 216(c) and 217 to correct unlawful employment practices on the basis of age and to make whole Ms. Adrienne Spellman who was aggrieved by the unlawful practices.

The U. S. Equal Employment Opportunity Commission ("EEOC" or the "Commission") alleges that, in November 2000, Defendant, Papillon Salons & Co., Inc. a/k/a Papillon Hair Salon & Spa, Inc. a/k/a/ Papillon Spas, Inc. a/k/a Papillon Hair Salon & Spa, II, Inc. ("Papillon" or "Defendant") terminated Ms. Spellman from her employment as a receptionist because of her age (forty years or over), in violation of the Age Discrimination in Employment Act of 1967, as amended.

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 and are now being committed within the jurisdiction of the United States District Court for the Eastern District of New York.

PARTIES

3. Plaintiff, the U. S. Equal Employment Opportunity 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, Papillon Salons & Co., Inc. a/k/a Papillon Hair Salon & Spa, Inc. a/k/a/ Papillon Spas, Inc. a/k/a Papillon Hair Salon & Spa, II, Inc. ("Papillon" or "Defendant"), has continuously been a corporation doing business in New York, and has continuously had at least twenty (20) employees.
5. At all relevant times, Defendant 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 means 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. More than thirty days prior to the institution of this lawsuit, Ms. Spellman filed a charge with the Commission alleging violations of the ADEA by Papillon. All conditions precedent to the institution of this lawsuit have been fulfilled.
8. Since at least September 2000, Defendant has engaged in unlawful employment practices, in violation of 29 U.S.C. § 621, *et seq.* The practices include discharging Ms. Spellman because of her age (forty years or over) and replacing her in the same position with a much younger female (under forty years) whose job description and responsibilities were identical to those of Ms. Spellman.
9. The effect of the practices complained of above has been to deprive Ms. Spellman of equal employment opportunities and otherwise adversely affect her status as an employee because of her age.
10. The unlawful employment practices complained of above were and are intentional and willful within the meaning of Section 7 (b) of the ADEA, 29 U.S.C. § 626 (b). Defendant Papillon at all relevant times has been acting with malice or reckless indifference to the federally protected rights of Ms. Spellman.

PRAYER FOR RELIEF

Wherefore, EEOC respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendant Papillon, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in wrongful employment practices which discriminate on the basis of age against individuals forty (40) years of age and older.
- B. Order Defendant Papillon to institute and carry out policies, practices and programs which provide equal employment opportunities for individuals forty (40) years of age and older, and which eradicate the effects of its past and present unlawful employment practices.
- C. Order Defendant Papillon to make whole Ms. Spellman, who was adversely affected by the unlawful employment practices described above, by providing affirmative relief necessary to eradicate the effects of the unlawful employment practices, including but not limited to her reinstatement to the position from which she was unlawfully terminated.
- D. Order Defendant to make whole Ms. Spellman by providing compensation for past and future pecuniary damages, including but not limited to medical expenses and health care benefits, in amounts to be determined at trial.
- E. Order Defendant to make whole Ms. Spellman by providing compensation for non-pecuniary losses, including but not limited to physical and emotional pain and suffering, mental anguish, inconvenience and loss of enjoyment of life, in amounts to be determined at trial.
- F. Order Papillon to award Ms. Spellman liquidated damages for Defendant's malicious, willful, and/or reckless conduct, in an amount to be determined at trial.
- G. Grant such further relief as the Court deems necessary and proper.
- H. Award the Commission its costs in this action.

JURY TRIAL DEMAND

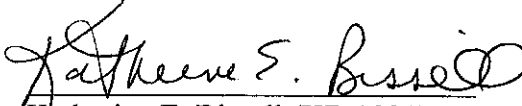
The Commission requests a jury trial on all questions of fact raised by its Complaint.

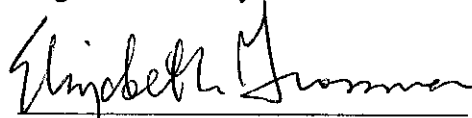
Dated: May 28, 2002
New York, New York

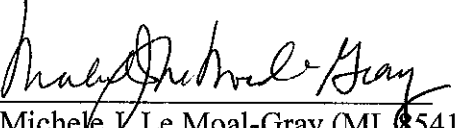
Respectfully submitted,

Gwendolyn Y. Reams
Associate General Counsel

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