

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EQUAL EMPLOYMENT OPPORTUNITY	:	
COMMISSION <i>et al.</i>	:	CIVIL ACTION
	:	
	:	No. 06-CV-04331
Plaintiff,	:	
v.	:	
	:	
HANNABERY ELECTRIC, INC.	:	
d/b/a HANNABERY HVAC	:	
	:	
Defendant.	:	
	:	

**CIVIL ACTION COMPLAINT OF INTERVENORS
MICHAEL MORRONE, GARY HALL AND JAMES O'BRIEN**

The above-named Intervenors hereby complain as follows against the above-named Defendant:

I. Introduction

1. The Intervening Plaintiffs have initiated the instant action to redress age discrimination by Defendant in violation of the Age Discrimination in Employment Act (ADEA) and the Pennsylvania Human Relations Act, as well as other applicable federal and state law. The Intervening Plaintiffs assert that Defendants subjected them to discrimination on the basis of their age.

II. Jurisdiction and Venue

2. The instant action is initiated pursuant to the Age Discrimination in Employment Act and other applicable federal and state law. This Court may properly maintain personal jurisdiction over Defendant because Defendant's contacts with this state and this judicial district are sufficient for the exercise of such jurisdiction to comply with traditional notions of fair play and

substantial justice, satisfying the standard set forth by the United States Supreme Court in *International Shoe Co. v. Washington*, 326 U.S. 310 (1945) and its progeny.

3. The United States District Court for the Eastern District of Pennsylvania may exercise original subject matter jurisdiction over the instant action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) because it arises under the laws of the United States and seeks redress for violations of civil rights.

4. The Court may also maintain supplemental jurisdiction over the state law claims set forth herein pursuant to 28 U.S.C. § 1367(a) and Rule 18(a) of the Federal Rules of Civil Procedure because they are sufficiently related to the claim(s) within the Court's original jurisdiction that they form part of the same case or controversy.

5. Venue is properly laid in the Eastern District of Pennsylvania pursuant to 28 U.S.C. §§ 1391(b)(1) and 1391(b)(2) because Defendant resides in and/or conducts business in this judicial district and because a substantial part of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district (The Intervening Plaintiffs were employed in the Eastern District of Pennsylvania at the time of the illegal actions set forth herein).

III. Parties

6. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

7. Intervenor Michael Morrone is an adult individual and citizen of the United States over the age of 40 with an address at 3501 Spruce Drive, Northampton, PA 18067.

8. Intervenor Gary Hall is an adult individual and citizen of the United States over the age of 40 with an address at 6545 Walnut Lane, Coopersburg, PA 18030.

9. Intervenor Movant James O'Brien is an adult individual and citizen of the United States over the age of 40 with an address at 2733 Valley Woods Road, Hatfield, PA 19440.

10. Defendant is a Pennsylvania corporation with an office at the above-captioned address.

11. At all times relevant herein, Defendant acted through its agents, servants and employees, each of whom was in the scope of his or her employment at all times relevant herein.

12. Defendant is an “employer” within the meaning of the Age Discrimination in Employment Act because it is engaged in an industry affecting commerce and because it maintains or maintained twenty (20) or more employees for each working day in each of twenty (20) or more weeks in the current or preceding calendar year.

13. Defendants also maintain a sufficient number of employees to satisfy the jurisdictional prerequisites of the Pennsylvania Human Relations Act (requiring four or more employees).

IV. Factual Background

14. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

15. Intervenors are each over 40 years of age and a member of the class of persons protected by the Age Discrimination in Employment Act (ADEA).

16. Intervenors hereby incorporate paragraphs 7 (a) – (j), paragraph 8, and paragraph 9 of the EEOC Complaint filed in this matter on September 28, 2006 at docket item no. 1.

17. Defendant has discriminated against Intervenors as a result of their age as set forth in paragraphs 7 (a)- (j), 8, and 9 the Complaint previously filed by the Equal Employment Opportunity Commission (docket item no. 1), which is fully incorporated herein.

COUNT ONE **VIOLATIONS OF THE PENNSYLVANIA HUMAN RELATIONS ACT**

18. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

19. Defendant’s actions as aforesaid, in harassing and discriminating against Intervenors based upon their age, also violated the Pennsylvania Human Relations Act, 43 Pa.C.S.A. § 959 *et. seq.*

WHEREFORE, Intervenor seeks the damages set forth in the *ad damnum* clause of the instant Complaint, *infra*.

AD DAMNUM CLAUSE / PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter an Order providing that:

A. Defendant is to be permanently enjoined from harassing, discriminating against or retaliating against Intervenor on the basis of their age, or any other basis forbidden by the Age Discrimination in Employment Act, the Pennsylvania Human Relations Act, and other applicable federal and state law;

B. Defendant is to be prohibited from continuing to maintain its illegal policy, practice, or custom of harassing, discriminating against, retaliating against or refusing to hire employees based on their age, and is to be ordered to promulgate an effective policy against such discrimination and to adhere thereto;

C. Defendant is to compensate Intervenor, reimburse Intervenor, and make Intervenor whole for any and all pay and benefits they would have received had it not been for Defendant's illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, commissions, medical and other benefits, training, promotions, pension, and seniority. Defendant should be required to pay all benefits illegally withheld from the date Intervenor first suffered discrimination at the hands of Defendant until the date of verdict;

D. Intervenor is to be awarded actual damages, as well as damages for the pain, suffering, and humiliation caused to them by Defendant's actions;

E. Double damages are to be awarded for willful violations of the ADEA;

F. Defendant is to remove any and all negative references or documents from Intervenor's employment record(s), if applicable;

G. Intervenor are to be accorded any and all other equitable and legal relief the Court deems just, proper, and appropriate;

H. Intervenor are to be awarded the costs and expenses of this action and reasonable attorneys' fees as provided by applicable federal and state law;

I. Any verdict in favor of Intervenor is to be molded by the Court to maximize the financial recovery available in light of the caps on certain damages set forth in applicable federal law, as mandated by the decision of the Third Circuit Court of Appeals in *Gagliardo v. Connaught Laboratories*, 311 F.3d 565, 570-71 (3d Cir. 2002);

J. The Court will maintain jurisdiction over the instant action to ensure Defendant's compliance with its Orders therein;

K. The Court will grant such additional legal and/or equitable relief as it deems necessary, just, and/or appropriate.

Respectfully submitted,

TIMOTHY M. KOLMAN AND ASSOCIATES

By: /s/ Timothy M. Kolman, Esquire

Timothy M. Kolman

Wayne A. Ely

Attorneys for Plaintiff

225 North Flowers Mill Road

Langhorne, PA 19047

(215) 750-3134

December 21, 2006