

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

UNITED STATES EQUAL EMPLOYMENT	)	
OPPORTUNITY COMMISSION,	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION NO.
v.	)	
	)	
EUREKA MARINE PRODUCTS CO. OF	)	
PUERTO RICO, INC. <i>d/b/a</i> EUREKA MARINE	)	
PRODUCTS	)	<u>COMPLAINT</u>
	)	<u>JURY TRIAL DEMAND</u>
Defendant(s).	)	<u>INJUNCTIVE RELIEF SOUGHT</u>
_____	)	

NATURE OF THE ACTION

This is an action under the Age Discrimination in Employment Act of 1967, as amended, to correct unlawful employment practices on the basis of age and to provide appropriate relief to Artagnan Olivera (hereafter “Mr. Olivera”), Jorge Martinez (hereafter “Mr. Martinez”), and other similarly situated individuals over the age of 40. As stated with greater particularity in paragraph 7 below the Equal Employment Opportunity Commission (“the Commission” or “EEOC”) alleges that on or around February 2004 Defendant Eureka Marine Products, Co. of Puerto Rico, Inc. (“Defendant” or “Eureka Marine”) unlawfully terminated 70 year old Mr. Olivera, 74 year old Mr. Martinez, and other similarly situated individuals over the age of 40 because of their ages.

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) 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 committed within the jurisdiction of the United States District Court for the District of Puerto Rico.

### PARTIES

3. Plaintiff, 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 Employer, Eureka Marine, has continuously been a Puerto Rico corporation authorized to do business in the Commonwealth of Puerto Rico and the City of Dorado, Puerto Rico, and in the State of Florida and the City of Ft. Lauderdale, Florida, 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. Since at least February 2004 Defendant Employer engaged in unlawful employment practices at its Dorado, Puerto Rico location, in violation of Section 4(a) of the ADEA, 29 U.S.C. § 623(a):

- (a) On or around February 2004 Defendant terminated 70 year old Mr. Olivera. Mr. Olivera was terminated when Defendant decided to terminate all employees over the age of 60.
- (b) Mr. Olivera was unlawfully terminated because of his age, 70.
- (c) On or around February 2004 Defendant terminated 74 year old Mr. Martinez. Mr. Martinez was terminated when Defendant decided to terminate all employees over the age of 60.
- (d) Mr. Martinez was unlawfully terminated because of his age, 74.
- (e) Other similarly situated individuals over the age of 40 were terminated when Defendant decided to terminate all employees over the age of 60.
- (f) Other similarly situated individuals over the age of 40 were unlawfully terminated because of their ages.

8. The effect of the practices complained of in paragraph(s) 7 above has been to deprive Mr. Olivera, Mr. Martinez, and other similarly situated individuals over 40 years of age of equal employment opportunities because of their ages.

9. The unlawful employment practices complained of in paragraph 7 above were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

PRAYER 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 engaging in the wrongful discharge, unequal administration of the terms and conditions of employment 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, an equal sum as liquidated damages, and prejudgment interest to individuals whose wages are being unlawfully withheld as a result of the acts complained of above, including but not limited to Mr. Olivera, Mr. Martinez, and other similarly situated individuals.

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, rightful-place hiring or rehiring and/or front pay for Mr. Olivera, Mr. Martinez, and other similarly situated individuals.

- 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.

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