

authorized and instituted pursuant to Section 7(b) of the ADEA, as amended, 29 U.S.C. § 621, et seq. which incorporates by reference Sections 16(c) and 17 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 216(c) and 217.

2. The unlawful employment practices alleged below were committed within the jurisdiction of the United States District Court for the Southern District of Texas, Houston Division.

PARTIES

3. Plaintiff, the Commission, is an agency of the United States of America charged with the administration, interpretation and enforcement of the ADEA. The Commission 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, Metropolitan Life Insurance Company, has continuously been and is now doing business in the State of Texas and the City of Houston, and has continuously had and does now have at least twenty employees.

5. At all relevant times, Defendant, Metropolitan Life Insurance Company, has continuously been and is now 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).

6. More than thirty days prior to the institution of this lawsuit, Johnny F. Holley filed a charge of discrimination with the Commission's Houston District Office against the Defendant alleging violations of the ADEA. All conditions precedent to the institution of this lawsuit have been fulfilled including the timely filing of a charge of discrimination, and an attempt to effect voluntary compliance with the ADEA through informal methods of conciliation within the meaning of Section 7(b) of the ADEA, 29 U.S.C. §626(b).

STATEMENT OF CLAIMS

7. Since at least October 29, 1998, the Defendant has been engaging in retaliation against Johnny Holley in violation of Section 4(d) of the ADEA, 29 U.S.C. § 623(d).

8. Defendant discriminated against Mr. Holley by subjecting him to retaliation because he had filed a previous charge alleging age discrimination.

9. After notification to the Regional Office and initial conversations with Abraham Chua, General Manager, at the Defendant's Sharpstown Agency, on October 28, 1998, Mr. Holley requested assignment as a sales representative at the Defendant's Sharpstown Agency.

10. On October 29, 1998, Mr. Scott Francis, Defendant's Regional Vice President, sent Mr. Chua an e-mail message which stated, in part, "Abe, you will be assuming a certain amount of

risk in accepting the transfer of Johnny Holley, as you will be responsible for him and his transition pay will be charged against your agency."

11. In a subsequent telephone conversation with Mr. Chua, presumably referring to the age discrimination charge which was the only proceeding pending between Mr. Holley and the Defendant, Mr. Francis told Mr. Chua, among other things, that Mr. Holley had a "lawsuit against [Mr. Francis] and the company."

12. By letter, dated November 4, 1998, Mr. Chua informed Mr. Holley "I am not able to offer you a position It was explained to me by the regional office that my Agency would be charged with your transition pay and this would be a risk I had not considered."

13. Mr. Francis gave Mr. Chua erroneous information about Mr. Chua's responsibility for Mr. Holley's transition pay.

14. The effect of Defendant's practices complained of above has been to deprive Mr. Holley of equal employment opportunities and otherwise adversely affect his status as an employee in retaliation for Mr. Holley filing a charge of age discrimination with the Commission.

15. The unlawful employment practices complained of 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, Metropolitan Life Insurance Company, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practice which retaliates against employees for engaging in protected activity under the ADEA and which discriminates on the basis of age against individuals 40 years of age or older.
- B. Order Defendant, Metropolitan Life Insurance Company, to institute and carry out policies, practices and programs which provide equal employment opportunities for applicants and employees who have been subjected to retaliation because they engaged in protected activity under the ADEA, and which eradicate the effects of its past and present unlawful employment practices.
- C. Grant a judgment requiring Defendant, Metropolitan Life Insurance Company, to make whole Mr. Holley by providing appropriate back wages, in an amount to be determined at trial, and an equal sum as liquidated damages, or pre-judgment interest in lieu thereof, in an amount to be determined at trial, as well as appropriate contributions to Mr. Holley's pension plan and any other affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices, including, but not limited to, rightful place reinstatement of Mr. Holley or in the alternative, front pay.
- D. Grant such further relief as the Court deems necessary and proper.
- E. Award the Commission its costs of this action.

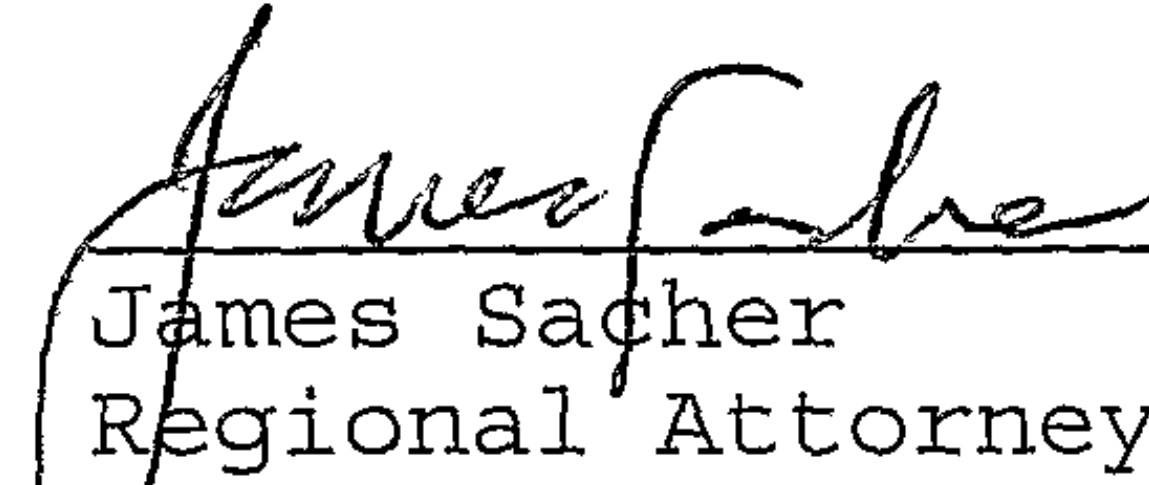
JURY DEMAND

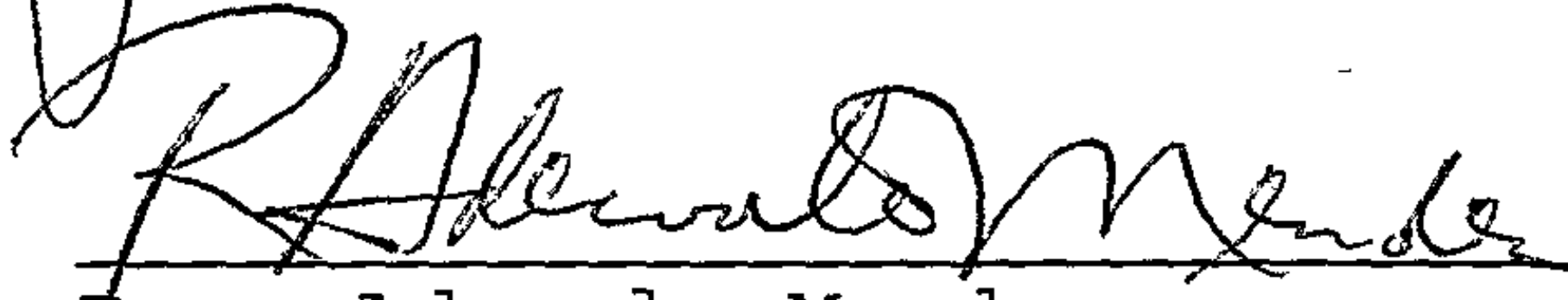
The Commission requests a jury trial on all questions of fact

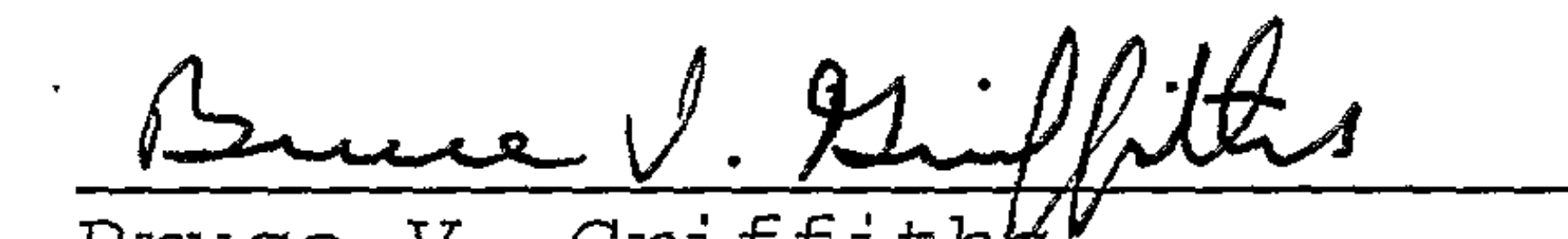
raised by its complaint.

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