

SEP 27 1999

Michael N. Milby, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

SEARS, ROEBUCK AND CO.,
Defendant.

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C-99-395

Civil Action No.

COMPLAINT
JURY TRIAL DEMAND

NATURE OF 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 Mary E. Broadstreet and a class of employees over the age of 40 who were adversely affected by such practices. These employees were subjected to unlawful discrimination through the intentional acts of the department manager, an employee and supervisor of Defendant, Sears, Roebuck and Co. (hereinafter "Sears").

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 Sections 626(c)(1), (2) and (d) of the Age Discrimination in Employment Act, as amended, 29 U.S.C. §626 ("ADEA").

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 Southern District of Texas, Corpus Christi Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (hereinafter "the

1.

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 Sections 626(c)(1), (2) and (d) of the ADEA, 29 U.S.C. §626.

4. At all relevant times, Defendant, Sears, a foreign corporation registered to do business in the State of Texas, has continuously been doing business in the State of Texas in the city of Corpus Christi, Texas as Sears, Roebuck and Co., and has continuously had at least fifteen employees.

5. At all relevant times, the Defendant, Sears, has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 630(b), (g), and (h) of the ADEA, 29 U.S.C. §630(b), (g), and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Mary E. Broadstreet filed a charge with the Commission alleging violations of the ADEA by Defendant, Sears. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least on or about February 1996 through September 1996, the Defendant, Sears, has engaged in unlawful employment practices at its store located at 1305 Airline Drive, Corpus Christi, Texas, in violation of Section 623(a)(1) of the ADEA, 29 U.S.C. § 623(a). The unlawful practices complained of were the failure to promote Mary E. Broadstreet and other comparably aggrieved members of the class of employees, based on their age. Mary E. Broadstreet complains that she was not promoted from part-time to full-time because of her age, when Defendant Sears' employee and department manager, promoted other employees outside the protected age group (PAG) who were no better qualified than Broadstreet. The EEOC further complains that other

comparably aggrieved members of the class were also subjected to unlawful discrimination because of their age when they were not promoted from part-time to full-time by Defendant Sears' department manager.

8. The effect of the practices complained of in paragraph seven above has been to deprive Mary E. Broadstreet and other comparably aggrieved members of the class of equal employment opportunities and to otherwise adversely affect their status as employees, because of their age.

9. The unlawful employment practices complained of in paragraph seven were and are intentional.

10. The unlawful employment practices complained of in paragraph seven above were willful within the meaning of Section 626(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 the Defendant, Sears, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of age;

B. Order the Defendant, Sears to institute and carry out policies, practices, and programs which provide equal employment opportunities for persons in the protected age group, and which eradicate the effects of its past and present unlawful employment practices;

C. Order the Defendant, Sears to make whole Mary E. Broadstreet and other comparably aggrieved individuals by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and an equal sum in liquidated damages. If the trier of fact should find the

unlawful employment practice complained of was not willful within the meaning of the ADEA, then the Commission respectfully requests that this Court grant an award of prejudgment interest on the back pay award to Ms. Broadstreet and other comparably aggrieved individuals;

D. Order the Defendant, Sears to make whole Mary E. Broadstreet and other comparably aggrieved members of the class, by providing other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to the reinstatement of Mary E. Broadstreet and other comparably aggrieved individuals as full-time employees, or front pay in lieu thereof;

E. Grant such further relief as the Court deems necessary and proper in the public interest; and

F. Award the Commission its costs in this action.

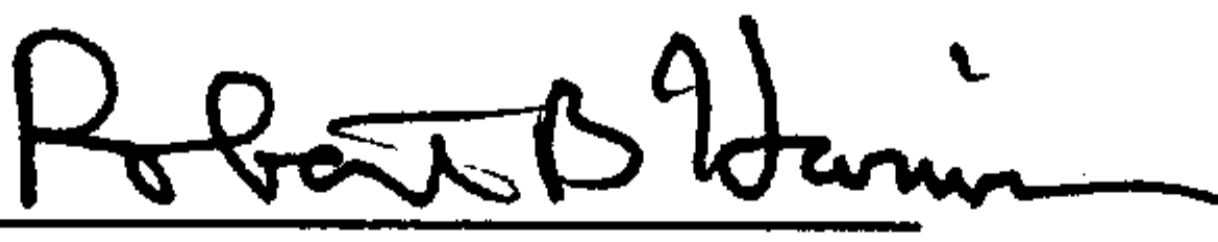
JURY TRIAL DEMAND

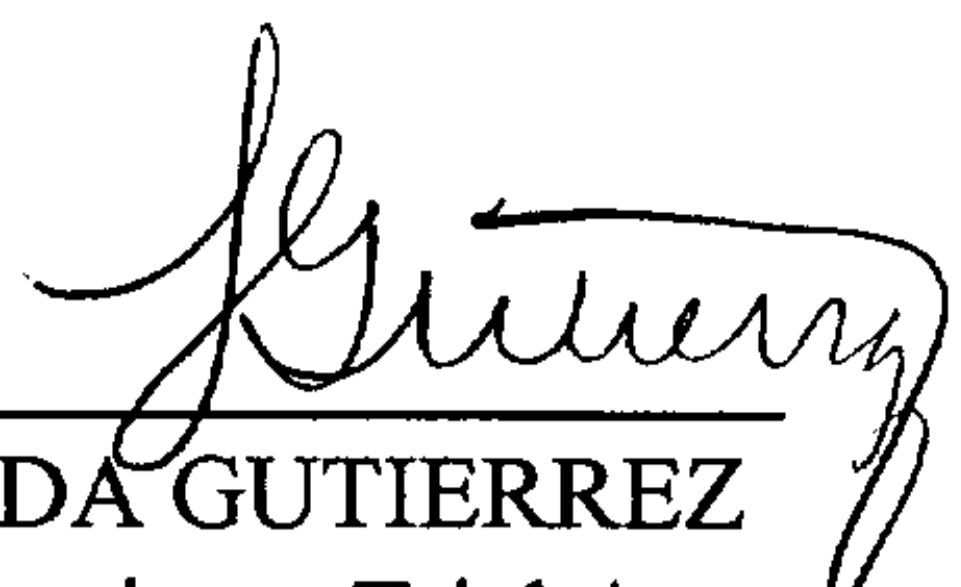
The Commission requests a jury trial on all questions of fact raised by its Complaint.


Respectfully submitted,

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