IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA TAMPA DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,)
Plaintiff,)) CIVIL ACTION NO.:
v.	} 8:01-CV-1075-T-26EAJ
APPLIED INDUSTRIAL TECHNOLOGIES, INC. and APPLIED INDUSTRIAL TECHNOLOGIES-DIXIE, INC. f/k/a BEARINGS, INC. and DIXIE-BEARINGS,	
INC.,) <u>COMPLAINT</u>
) JURY TRIAL DEMAND
Defendants.)
	_) <u>INJUNCTIVE RELIEF</u>
	SOUGHT

NATURE OF THE ACTION

This is an action under the Age Discrimination in Employment Act of 1967, as amended (the "ADEA"), to correct unlawful employment practices on the basis of age and to provide appropriate relief to Raymon Harrell and Jaime Rodriguez and similarly situated individuals who were also affected by those unlawful employment practices. As stated with greater particularity in paragraph 7 below, the Equal Employment Opportunity Commission (the "Commission") alleges that since at least January of 1995, Defendants, Applied Industrial Technologies, Inc. and Applied Industrial Technologies-Dixie, Inc. f/k/a Bearings, Inc. and Dixie-Bearings, Inc, violated the ADEA when they laid off or discharged Messrs. Harrell and Rodriguez and similarly situated individuals from their respective positions on the basis of their age and replaced them with, or assigned their duties to, younger employees.

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) of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. § 216(c).
- 2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Middle District of Florida, Tampa Division.

PARTIES

- 3. Plaintiff, the Equal Employment Opportunity Commission (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, Defendants Applied Industrial Technologies, Inc. and Applied Industrial Technologies-Dixie, Inc., f/k/a, Bearings, Inc. and Dixie-Bearings, Inc. (the "Employer"), have continuously been doing business in the State of Florida and the City of Tampa, 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 January 1, 1995, the Defendant Employer engaged in unlawful employment practices at its facilities in Florida in violation of Section 4(a) of the ADEA, 29 U.S.C. § 623(a), by laying off or discharging Raymon Harrell and Jaime Rodriguez and similarly situated individuals, because of their age.
 - (a) Raymon Harrell and Jaime Rodriguez were over the age of 40 during the relevant time period and were experienced, long-term employees who were qualified for the positions they held with the Defendant Employer or for other positions available with the Defendant Employer at the time of their lay off or discharge.
 - (b) Raymon Harrell and Jaime Rodriguez were subjected to either lay off or discharge by the Defendant Employer.
 - (c) Raymon Harrell and Jaime Rodriguez were either replaced by or had their duties assigned to significantly younger individuals who were hired or retained by the Defendant Employer.
 - (d) Other similarly situated employees of the Defendant Employer were over the age of 40 during the relevant time period; were qualified for the positions they held with the Defendant Employer or for other positions available with the Defendant Employer

at the time of their lay off or discharge; were subjected to either lay off or discharge by the Defendant Employer; and were all either replaced by or had their duties assigned to significantly younger individuals who were hired or retained by the Defendant Employer.

- 8. The effect of the practices complained of in paragraph 7 above has been to deprive Raymon Harrell and Jaime Rodriguez and similarly situated individuals of equal employment opportunities and otherwise adversely affect their status as employees because of their age.
- 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 policies and/or practices of removing, laying off or discharging individuals because of their age, or engaging in any other employment practices which discriminate 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 unlawful employment practices.
- C. Grant a judgment requiring Defendant Employer to pay appropriate back wages in an amount to be determined at trial, and 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, paying wages to Raymon Harrell and Jaime Rodriguez and similarly situated individuals.

- Order Defendant Employer to make whole all individuals adversely affected by the D. 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 Raymon Harrell and Jaime Rodriguez and 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.

7.

JURY TRIAL DEMAND

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

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