

The U.S. Equal Employment Opportunity Commission

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EEOC WINS JURY VERDICT OF NEARLY \$400,000 FOR OLDER WORKER FIRED BY CASKET COMPANY

Lawsuit Said Veteran Foreman Terminated Due to Age Discrimination and Replaced by Younger Worker He Trained

BALTIMORE - A federal jury has awarded \$397,948 in backpay and damages to a 56-year old veteran foreman of a Baltimore, Maryland-based wholesaler of burial caskets who was fired due to age discrimination after three decades of work for the company, the U.S. Equal Employment Opportunity Commission (EEOC) announced today.

The EEOC's lawsuit said that Fred W. Kuehnl, who upholstered the interior of caskets and served as foreman of the Warfield-Rohr Casket Company's trimming division for 29 years, was fired by CEO Howard Ayres on April 28, 2000, due to ageism. Warfield-Rohr, founded in 1870, is one of the oldest casket makers and funeral supply firms in the Mid-Atlantic, with operations in Maryland, Virginia, and Delaware.

"Although it took over five years, it feels good when you know that you were right," said Kuehnl after the verdict was delivered following a four-day trial. "I feel vindicated for the discrimination I suffered because of my age." In addition to the nearly \$400,000 in lost wages, the EEOC is requesting that the court also award equitable relief to Kuehnl, including front pay and an injunction prohibiting the company from future acts of age discrimination.

The EEOC asserted in the suit that prior to terminating Kuehnl, CEO Ayres made numerous inflammatory age-based remarks and indicated that a younger employee could better serve the company. Despite Kuehnl's superior experience and qualifications as a long-time employee of the division, he was forced to train his 33-year old replacement prior to his termination. Kuehnl testified that when he told Ayres that he planned to work until age 65, the CEO remarked in a derisive tone, "We will see about that."

The lawsuit was initially filed by the EEOC in September 2001 under the Age Discrimination in Employment Act of 1967 (ADEA) and dismissed in 2003 by U.S. District Judge William M. Nickerson on

a grant of summary judgment for the employer. The EEOC then successfully appealed to the U.S. Court of Appeals for the Fourth Circuit, which overturned the dismissal in April 2004 and sent the case back to the lower court for trial.

Gerald S. Kiel, Regional Attorney for the EEOC's Baltimore District Office, said: "Mr. Kuehnl was a dedicated and loyal employee who worked diligently for 29 years at Warfield-Rohr Casket Company without a single write-up of poor performance. Nevertheless, he was discriminated against and fired because the CEO thought he was too old, even though he contributed to the company's success and profitability for decades."

Noting that it is rare for an age discrimination lawsuit by the EEOC to go to trial, Regina Andrew, who represented the agency in the case, said, "This verdict is significant because the jury found that the firing of Kuehnl was willful and in reckless disregard of the federal law prohibiting age discrimination in employment. Employers must heighten their awareness to age-related issues and refrain from making employment decisions based on myths and stereotypes about older workers."

In addition to enforcing the ADEA, which protects workers age 40 and older from discrimination based on age, the EEOC also enforces federal laws prohibiting discrimination in employment based on race, color, sex (including sexual harassment and pregnancy), religion, national origin, disability, and retaliation. Further information about the Commission is available on the agency's web site at www.eeoc.gov.

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