

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

INDEPENDENT SCHOOL DISTRICT NO. 834
OF STILLWATER, MN,

Defendant.

Civil Action No. 05cv2908
RHK/ADB

COMPLAINT

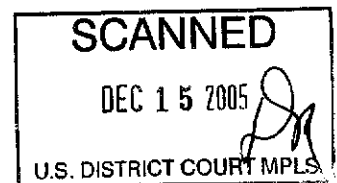
Jury Trial Demand

NATURE OF THE ACTION

This is an action under the Age Discrimination in Employment Act ("ADEA") to correct unlawful employment practices on the basis of age, and to provide appropriate relief to William Simpson, Susan Oberg, Dale Kruse, Carolyn Jacobs, Molly Lein, Vernon Pennie, Elton Cunningham, Marilyn Cathcart, Larry Miller, James Foley and other similarly situated individuals (collectively the "class members"). The U.S. Equal Employment Opportunity Commission ("Commission") alleged that from June, 1998 through at least June 2001, Independent School District No. 834 of Stillwater, Minnesota ("ISD 834"), discriminated against the class members by paying an early retirement incentive cash benefit which had been reduced because of age.

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 Sections 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 Minnesota.

PARTIES

3. Plaintiff, the Commission, is an 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, ISD 834 has continuously been a public school district operating in Stillwater, Minnesota, and has continuously had at least 20 employees.

5. At all relevant times, ISD 834 has continuously been an employer, a political subdivision of a State, within the meaning of Section 11(b) of the ADEA, 29 U.S.C. § 630(b).

CONCILIATION

6. Prior to the institution of this lawsuit, the Commission's representatives attempted to eliminate the unlawful employment practice 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. From at least June 1998 through at least June 2001, ISD 834 engaged in unlawful employment practices in violation of Section 4(a) of the ADEA, 29 U.S.C. § 623(a), by entering

into collective bargaining agreements, and a salary program for confidential, supervisory and technical employees, which provided retiring employees a cash early retirement incentive of severance pay, which was reduced because of the employee's age at retirement. Since June 1998, the following employees who retired from ISD 834 have had their benefits reduced, specifically:

- a. William Simpson, who retired in June 2001, had his benefit reduced because of his age, 58.
- b. Marilyn Cathcart, who retired in June 2000, had her benefit reduced because of her age, 64.
- c. Elton Cunningham, who retired in June 2000, had his benefit reduced because of his age, 58.
- d. James Foley, who retired in June 2000, had his benefit reduced because of his age, 64.
- e. Carolyn Jacobs, who retired in June 2000, had her benefit reduced because of her age, 58.
- f. Dale Kruse, who retired in June 2001, had his benefit reduced because of his age, 58.
- g. Molly Lein, who retired in June 2000, had her benefit reduced because of her age, 60.
- h. Larry Miller, who retired in June 2000, had his benefit reduced because of his age, 57.
- i. Susan Oberg, who retired in June 2001, had her benefit reduced because of her age, 59.

j. Vernon Pennie, who retired in November 2000, had his benefit reduced because of his age, 58.

8. 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 ISD 834, its appointees, employees, officers, successors, assigns, divisions, and all persons in active concert or participation with them, from engaging in employment practices that discriminate on the basis of age against individuals aged 40 and older.

B. Grant a permanent injunction enjoining Defendant ISD 834 from offering any early retirement incentive program which reduces benefits because of age.

C. Grant a judgment requiring Defendant ISD 834 to pay class members the amount of the early retirement incentive benefit to which each would have been entitled prior to the reduction based on his or her age, plus an equal sum as liquidated damages.

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

E. 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.

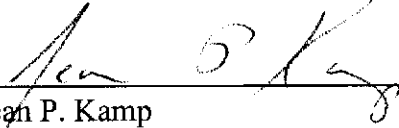
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

James L. Lee
Deputy General Counsel

Gwendolyn Young Reams
Associate General Counsel

1801 L Street N.W.
Washington, D.C. 20507

Dated 12-13-05



Jean P. Kamp
Regional Attorney
Milwaukee District Office
310 W. Wisconsin Avenue, Suite 800
Milwaukee, WI 53203
(414) 297-1860

Laurie A. Vasichek (#0171438)
Senior Trial Attorney
Minneapolis Area Office
330 Second Avenue South, Suite 430
Minneapolis, MN 55401
(612) 335-4061