



## 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 Western District of Missouri.

## 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, Defendant, The Jones Store Company, has continuously been doing business in the

State of Missouri and the City of Kansas City, and has continuously had at least 20 employees.

5. At all relevant times, Defendant, May Department Stores Company, has continuously been doing business in the State of Missouri and has continuously had at least 20 employees.

6. At all relevant times, both Defendants have continuously been employers 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

7. 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

8. Since at least October 1995, the Defendant, The Jones Store Co., has engaged in unlawful employment practices at its Metro North store, Highway 169 and Barry Road, Kansas City, Missouri, in violation of Section 4(a) of the ADEA, 29 U.S.C. §623(a). The practices included failing to assign

Barbara Wells because of her age, then 59, to the Estee Lauder cosmetics counter, thereby causing her to receive lower sales commissions and earnings because the cosmetic counter to which she was assigned, Clarins, had a lower sales volume than the Estee Lauder cosmetics counter.

9. The effect of the practices complained of in paragraph eight above has been to deprive Barbara Wells of equal employment opportunities and otherwise adversely affect her status as an employee because of her age.

10. The unlawful employment practices complained of in paragraphs eight and nine above were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626 (b).

11. Defendant, May Department Stores, Inc., acquired The Jones Store, Co. and continued its operations in such a manner as to become a successor employer.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants their officers, successors, assigns and all persons in active concert or participation with them, from making job assignments, and/or promotions based upon age and any other employment practice which discriminates on the basis of age

against individuals 40 years of age and older.

B. Order Defendants 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 past and present unlawful employment practices.

C. Grant a judgment requiring Defendants to pay Barbara Wells appropriate back wages in an amount to be determined at trial, and an equal sum as liquidated damages, and prejudgment interest.

D. Order Defendant to make whole Barbara Wells by restraining the continued withholding of amounts owing as back wages with prejudgment interest, in amounts to be determined at trial.

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.

JURY TRIAL DEMAND

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

Respectfully submitted,

GWENDOLYN YOUNG REAMS  
Associate General Counsel

/s/ Robert G. Johnson

ROBERT G. JOHNSON  
Regional Attorney

/s/ C. Felix Miller

C. FELIX MILLER MoBar #28309  
Senior Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
St. Louis District Office  
Robert A. Young Federal Bldg.  
1222 Spruce, Room 8.100  
St. Louis, MO 63103  
(314) 539-7949

/s/ Andrea L. Taylor

ANDREA L. TAYLOR MoBar # 42733  
Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
Kansas City Area Office  
Gateway Tower II  
400 State Avenue, Suite 905  
Kansas City, Kansas 66101  
(913) 551-5845  
FAX (913) 551-6957

ATTORNEYS FOR PLAINTIFF  
EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION