1	Mary Jo O'Neill AZ Bar #005924 Sally C. Shanley AZ Bar # 012251		
2	MICHELLE G. MARSHALL AZ BAR # 017358 EQUAL EMPLOYMENT OPPORTUNITY		
3	COMMISSION, Phoenix District Office 3300 North Central Avenue, Suite 690		
4	Phoenix, Arizona 85012		
5	Telephone: (602) 640-5020 Email: mary.oneill@eeoc.gov		
6	sally.shanley@eeoc.gov michelle.marshall@eeoc.gov		
7	Attorneys for Plaintiff		
8			
9	IN THE UNITED STATES DISTRICT COURT		
10	FOR THE DISTRICT OF ARIZONA		
	FOLIAL EMPLOYMENT		
11	EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	CIV	
12	Plaintiff,		
13	<u> </u>	COMPLAINT	
14	VS.	COMPLAINT	
15	TEMPLE-INLAND INC., d/b/a INLAND) PAPERBOARD & PACKAGING, a Delaware corporation,	(Jury Trial Demanded)	
16)		
17	Defendant.		
18			
19	NATURE OF THE ACTION		
20	This is an action under the Age Discrimination in Employment Act to correct		
21	unlawful employment practices on the basis of age and to provide appropriate relief to		
	.ii		

This is an action under the Age Discrimination in Employment Act to correct unlawful employment practices on the basis of age and to provide appropriate relief to David C. Neal and a class of individuals, age 40 or older, whom Defendant terminated because of their age. The Equal Employment Opportunity Commission ("Plaintiff" or "Commission") alleges that Defendant, Temple Inland Inc., d/b/a Inland Paperboard & Packaging, ("Defendant"), terminated Mr. Neal, who was then age 56, from his job as Plant Manager because of his age. The Commission also alleges Defendant terminated a class of employees who are at least 40 years of age because of their 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 Section 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 and are now being committed within the jurisdiction of the United States District Court for the District of Arizona.

PARTIES

- 3. Plaintiff, the Equal Employment Opportunity 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 has continuously been a Delaware corporation doing business in the State of Arizona and the City of Glendale, and has continuously had at least 20 employees.
- 5. At all relevant times, Defendant 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).

2.5

STATEMENT OF CLAIMS

2.5

- 7. Since at least July 30, 2001, Defendant has engaged in unlawful employment practices at its Glendale, Arizona facilities in violation of Section 623(a)(1) of the ADEA, 29 U.S.C. § 623 (a)(1). The unlawful employment practices include:
 - a. Terminating the employment of Mr. Neal, who was born in 1946, because of his age;
 - b. Terminating a class of employees who were age 40 or older;
 - c. During the relevant time, Defendant's management would make agebiased comments, such as discussing whether certain employees who were over the age of 40 were "retiring on the job;" and
 - d. One or more of Defendant's management officials commented that Defendant's Arizona employees were "old" and made statements like "this is a young man's game" and "we need young blood."
- 8. The effect of the practices complained of in paragraph 7(a)-(d) above has been to deprive Mr. Neal and a class of employees who are 40 years of age or older, 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(a)-(d) above are 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, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in the termination of employees who are 40 years old or older because of their age and from any other employment practice which discriminates on the basis of age against individuals 40 years of age and older.
- B. Order Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for individuals 40 years of age and older,

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1	<u>s/Mary Jo O'Neill</u> MARY JO O'NEILL
2	Regional Attorney
3	s/Sally C. Shanley SALLY C. SHANLEY
4	Supervisory Trial Attorney
5	s/Michelle G. Marshall
6	<u>s/Michelle G. Marshall</u> MICHELLE G. MARSHALL Trial Attorney
7	
8	EQUAL EMPLOYMENT OPPORTUNITY COMMISSION Phoenix District Office 3300 N. Central Ave., Suite 690 Phoenix, Arizona 85012 (602) 640-5020 Attorneys for Plaintiff
9	3300 N. Central Ave., Suite 690 Phoenix, Arizona 85012
10	(602) 640-5020 Attorneys for Plaintiff
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	