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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Equal Employment Opportunity
Commission,

Plaintiff,

vs.

Lennar Homes of Arizona, Inc.,

Defendant.

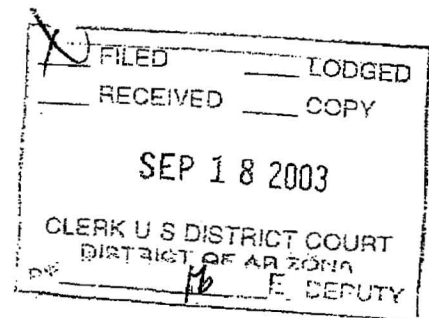
6V '03 1827 PHX-DGC

COMPLAINT

(Jury Trial Demanded)

NATURE OF THE ACTION

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 Jacque Judge, Carol Nikrant, Gordon Cameron, and a class of protected age group persons whom Defendant laid off because of their age. The Equal Employment Opportunity Commission ("EEOC" or "Commission") alleges that Defendant, Lennar Homes of Arizona, Inc. ("Lennar Homes"), terminated employees who are at least 40 years of age and older because of their age, including Ms. Judge, Ms. Nikrant, and Mr. Cameron, from their positions as Sales Consultants because of their ages, 55, 60, and 56,



①

1 respectively

2 JURISDICTION AND VENUE

3 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451,
4 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to
5 Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended,
6 29 U.S.C. § 626(b) (the "ADEA"), which incorporates by reference Section 16(c)
7 and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29
8 U.S.C. §§216(c) and 217.

9 2. The employment practices alleged to be unlawful were and are now
10 being committed within the jurisdiction of the United States District Court for the
11 District of Arizona.

12 PARTIES

13 3. Plaintiff, the Equal Employment Opportunity Commission (the
14 "Commission"), is the agency of the United States of America charged with the
15 administration, interpretation and enforcement of the ADEA and is expressly
16 authorized to bring this action by Section 7(b) of the ADEA, 29 U.S.C. § 626(b),
17 as amended by Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781,
18 and by Public Law 98-532 (1984), 98 Stat. 2705.

19 4. At all relevant times, Defendant, Lennar Homes of Arizona, Inc. (the
20 "Employer" or "Lennar Homes"), has continuously been a domestic corporation
21 doing business in the State of Arizona and the City of Phoenix, and has
22 continuously had at least 20 employees.

23 5. At all relevant times, Defendant Lennar Homes has continuously
24 been employers engaged in an industry affecting commerce within the meaning
25 of Sections 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).

26 CONCILIATION

27 6. Prior to institution of this lawsuit, the Commission's representatives
28 attempted to eliminate the unlawful employment practices alleged below and to

1 effect voluntary compliance with the ADEA through informal methods of
2 conciliation, conference and persuasion within the meaning of Section 7(b) of the
3 ADEA, 29 U.S.C. § 626(b).

4 STATEMENT OF CLAIMS

5 7. Since at least May 1, 2000, Lennar Homes engaged in unlawful
6 employment practices in violation of Section 623(a)(1) of the ADEA, 29 U.S.C. §
7 623 (a)(1). The practices include terminating protected age group employees,
8 including Jacque Judge, Carol Nikrant, and Gordon Cameron, from their positions
9 as Sales Consultants because of their ages, 55, 60, and 56 respectively.

10 8. At the time of termination, Ms. Nikrant had been employed for
11 approximately five years, Ms. Judge for approximately eight years, and Mr.
12 Cameron for approximately three years.

13 9. During their employment tenure, Ms. Judge, Ms. Nikrant, and Mr.
14 Cameron were productive employees. For instance, in 1999, Ms. Judge and Ms.
15 Nikrant received "MAME" Awards for \$8,000,000 in sales. Likewise, Ms. Nikrant's
16 final evaluation, prior to her termination, referred to her as an "outstanding
17 salesperson." Finally, according to Lennar's Monthly Sales Recap for September
18 1998, the last month in which the reports were disseminated to Sales
19 Consultants, Mr. Cameron sold 73 homes for a dollar value of \$11,407,120 for
20 the first ten months of the fiscal year of 1998. This ranked Mr. Cameron first
21 among the 14 Sales Consultants listed on the report, exceeding by 34 homes the
22 second ranked Sales Consultant.

23 10. During their employment, Ms. Judge, Ms. Nikrant, and Mr. Cameron
24 were never disciplined for insufficient sales or any other performance problems.

25 11. In early 2000, Ms. Judge, Ms. Nikrant and Mr. Cameron were told
26 that Lennar Homes was contracting due to economic reasons. Following the
27 termination, however, Lennar Homes advertised for Sales Consultants in a new
28 community. Instead of recalling the laid off workers to work in the new

1 community, Lennar Homes opted for younger, less experienced employees.

2 12. Lennar never offered to rehire Ms. Judge, Ms. Nikrant or Mr.
3 Cameron.

4 13. The effect of the practices complained of in paragraphs 7-12 above
5 has been to deprive employees 40 years of age or older, including Jacque Judge,
6 Carol Nikrant, and Gordon Cameron, of equal employment opportunities and
7 otherwise adversely affect their status as employees because of their age.

8 14. The unlawful employment practices complained of in paragraph 7
9 above is and are willful within the meaning of Section 7(b) of the ADEA, 29
10 U.S.C. § 626(b).

11 PRAYER FOR RELIEF

12 Wherefore, the Commission respectfully requests that this Court:

13 A. Grant a permanent injunction enjoining Defendant Lennar Homes, its
14 officers, successors, assigns and all persons in active concert or participation
15 with it, from engaging in discipline, retaliation, and any other employment practice
16 which discriminates on the basis of age against individuals 40 years of age and
17 older.

18 B. Order Defendant Lennar Homes to institute and carry out policies,
19 practices and programs which provide equal employment opportunities for
20 individuals 40 years of age and older, and which eradicate the effects of its past
21 and present unlawful employment practices.

22 C. Grant a judgment requiring Defendant Lennar Homes to pay
23 appropriate back wages in an amount to be determined at trial, an equal sum as
24 liquidated damages, and prejudgment interest to individuals whose wages are
25 being unlawfully withheld as a result of the acts complained of above to Jacque
26 Judge, Carol Nikrant, Gordon Cameron and other individuals 40 years and older
27 who were adversely affected by the unlawful practices described above.

28 D. Order the Defendant Lennar Homes to make whole a class of

1 protected age group employees who were adversely affected by the unlawful
2 practices described above, by providing the affirmative relief necessary to
3 eradicate the effects of its unlawful practices, including but not limited to rightful -
4 place hiring of the class of protected age group employees and/or front pay.

5 E. Grant such further relief as the Court deems necessary and proper in
6 the public interest.

7 F. Award the Commission its costs of this action.

8 JURY TRIAL DEMAND

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

11 DATED this 18 day of September, 2003.

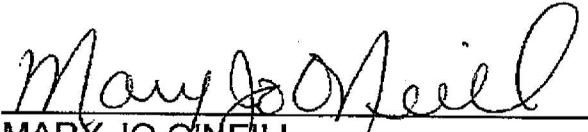
12 Respectfully submitted,

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