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6 *Attorneys for Plaintiffs*

7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE DISTRICT OF ARIZONA

10 John Guido and Dennis Rankin,

11 Plaintiffs,

12 vs.

13 Mount Lemmon Fire District,

14 Defendant.  
15

Case No.

**COMPLAINT**

**(Jury Trial Requested)**

16  
17 For their complaint, Plaintiffs, John Guido and Dennis Rankin, allege as follows:

18 **NATURE OF THE CASE**

19 1. In this action, Plaintiffs seek damages arising from being terminated from  
20 their employment on the basis of their ages in violation of the Federal Age Discrimination  
21 in Employment Act, 29 U.S.C. § 623 *et seq.*

22 **JURISDICTION AND VENUE**

23 2. This Court has original Federal question subject matter jurisdiction pursuant  
24 to 29 U.S.C. § 626.

25 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because the  
26 acts complained of occurred in Pima County, Arizona.



1           14. Mr. Guido holds Associates Degrees in Fire Science and Emergency  
2 Medical Technology, worked as a firefighter in the military, was the only person in  
3 MLFD qualified and nationally certified in reviewing building plans, and holds the  
4 qualifications of Fire Inspector and Senior Fire Inspector.

5           15. Mr. Guido's last performance evaluation was in February of 2006 and he  
6 was rated as excellent in ten areas and above average in the thirteen others. Mr. Guido  
7 never had any negative feedback regarding his work.

8           16. In November of 2000, MLFD hired Mr. Rankin as a Reserve  
9 Firefighter/EMT. Mr. Rankin has been an EMT since 1972.

10          17. Mr. Rankin graduated from Pima Community College Public Safety  
11 Academy with a certificate from the Arizona State Fire Marshall.

12          18. Mr. Rankin has worked in Public Safety since 1973, including working as  
13 an arson investigator, working on the Pima County Hazardous Materials Team, working  
14 as a firefighter with Rural Metro Fire Department and South Tucson Fire Department, and  
15 working on an Ambulance with Rural Metro/Southwest.

16          19. In May of 2002, Mr. Rankin was assigned to liaison with other agencies at  
17 the Emergency Operations Center at the Pima County Sheriff Rincon Substation and was  
18 the public relations person for MLFD.

19          20. In January of 2005, Mr. Ranking became Acting Captain and was placed in  
20 charge of C-shift.

21          21. In the fall of 2005, Mr. Rankin was promoted to the rank of Captain.

22          22. Mr. Rankin's performance evaluations were always "meets or exceeds  
23 standards" in all categories. Mr. Rankin has never had any negative feedback regarding  
24 his work.

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26

1 23. On March 26, 2009, Fire Chief Dean Barnella released a memorandum  
2 about Budget Reduction which stated that paramedics would have priority to be retained  
3 in the event of personnel reductions.

4 24. On March 27, 2009, Chief Barnella told a co-worker of Mr. Guido and Mr.  
5 Rankin that this co-worker was being selected for layoff because of his DUI conviction  
6 and inability to drive response vehicles.

7 25. On June 15, 2009, Mr. Guido and Mr. Rankin were told that they were being  
8 laid off.

9 26. At the time of their layoff, Mr. Guido was forty-five years old and Mr.  
10 Rankin was fifty years old.

11 27. At the time Mr. Guido and Mr. Rankin were laid off, Fire Chief Barnella  
12 was in his 30's.

13 28. At the time of their layoff, Mr. Guido and Mr. Rankin were the two oldest  
14 full-time employees in MLFD.

15 29. At the time of their layoff, Mr. Guido and Mr. Rankin were two of the three  
16 Captains in MLFD, and the other Captain, Joe Gunia, was 33 years of age and was not a  
17 paramedic.

18 30. Two firefighters, who were approximately 30 years of age and who were not  
19 paramedics, were promoted to Acting Captain positions after Mr. Guido and Mr. Rankin  
20 were laid off.

21 31. As of July 28, 2009, other than Mr. Cuestas, Mr. Guido and Mr. Rankin, no  
22 other MLFD firefighters had been laid off.

### 23 **CAUSE OF ACTION**

24 32. Mr. Guido and Mr. Harris each have a cause of action under 29 U.S.C. §  
25 621 *et seq.*

26

1 33. MLFD discriminated against Mr. Guido and Mr. Rankin because of their  
2 age in violation of the ADEA.

3 34. The stated reasons for MLFD's conduct are not the true reasons, but instead,  
4 were a pretext to hide MLFD's discriminatory conduct.

5 35. MLFD's actions were deliberate, willful and in reckless disregard for Mr.  
6 Guido's and Mr. Rankin's rights.

7 36. As a direct result of the conduct of MLFD, Mr. Guido and Mr. Rankin have  
8 suffered, and will continue to suffer, lost income and diminished earning capacity.

9 **REQUEST FOR JURY**

10 37. Plaintiffs request a trial by jury to the fullest extent permitted by law.

11 **RELIEF SOUGHT**

12 WHEREFORE, Plaintiffs John Guido and Dennis Rankin, each request judgment  
13 in their favor against Defendant, Mount Lemmon Fire District, awarding each of them the  
14 following:

- 15 a. Compensatory damages for lost income and diminished earning capacity;  
16 b. Liquidated damages;  
17 c. Attorneys' fees and costs incurred in this lawsuit; and  
18 d. Any other equitable relief this Court deems just and appropriate.

19 RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of April, 2013.

20 AWERKAMP & BONILLA, PLC

21  
22 By /s/ Don Averkamp

Don Averkamp

Shannon Giles

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24 *Attorneys for Plaintiffs*