

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

HARVEY N. LEVIN,)
)
Plaintiff,)
)
v.) No. 07 C 4765
)
) The Honorable David H. Coar
) Judge Presiding
LISA MADIGAN, individually, and)
as ILLINOIS ATTORNEY GENERAL,)
OFFICE OF THE ILLINOIS) Jury Trial Demanded
ATTORNEY GENERAL,)
THE STATE OF ILLINOIS,)
ANN SPILLANE, individually,)
ALAN ROSEN, individually,)
ROGER P. FLAHAVEN, individually,)
and DEBORAH HAGEN, individually,)
)
Defendants.)

PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff, HARVEY N. LEVIN, by and through his attorney, EDWARD R. THEOBALD, for his complaint against Defendants, states as follows:

COUNT I
AGE DISCRIMINATION - ADEA

1. This action is brought pursuant to the Age Discrimination in Employment Act (hereinafter "ADEA"), 29 U.S.C. Sec. 621 *et seq.*, as amended. This Court has jurisdiction of this complaint under 29 U.S.C. Sec. 626(c), Title VII, Civil Rights Act of 1964, 42 U.S.C. Section 2000e-5 *et seq.* as amended, 28 U.S.C. Sections 1331 and 1343 and 745 ILCS 5/1.5. Venue for the acts alleged below is proper in this District.

2. Plaintiff, HARVEY N. LEVIN, is male, 62 years old and resides in Chicago, Cook County, Illinois.

3. Defendants, LISA MADIGAN, not individually, but officially as Illinois Attorney General, the OFFICE of the ILLINOIS ATTORNEY GENERAL, and the STATE OF ILLINOIS, hereinafter referred to as "defendants" are located at the Thompson Center, 100 West Randolph, Chicago, Cook County, IL 60601.

4. Defendants employ in excess of 500 employees and are employers defined by Title VII, 42 U.S.C. Sec. 2000 (e) *et seq.*, and the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. Sec. 621 *et seq.*

5. Since on or about September 5, 2000, plaintiff was employed by defendants as an Assistant Attorney General in the Consumer Fraud Bureau.

6. In 2002, plaintiff was promoted to Senior Assistant Attorney General, the second lowest attorney position, and was an employee as defined by Title VII, 42 U.S.C. Sec. 2000 (e) *et seq.*, and the ADEA, 29 U.S.C. Sec. 621 *et seq.*

7. Throughout his employment, plaintiff's job performance was more than satisfactory and he consistently met or exceeded his employer's legitimate job expectations.

8. Defendants' last performance rating of plaintiff prior to May 12, 2006 rated plaintiff as "Exceeds Expectations" - the highest rating on six out of twelve categories and "Meets Expectations" on the remaining performance criteria.

9. On or about May 12, 2006, defendants intentionally discriminated against plaintiff due to his age and sex and unlawfully terminated plaintiff's employment.

10. Defendants did not terminate the employment of similarly situated employees whose work performance was inferior to plaintiff's work performance, or defendants intentionally treated plaintiff differently than similarly situated female employees, or defendants intentionally treated plaintiff differently than similarly situated employees substantially younger than plaintiff.

11. Defendants replaced plaintiff with an individual who was less qualified than him, who is substantially younger than plaintiff, and female.

12. Defendants intentionally terminated two other male Assistant Attorneys General, over the age of 50, in the Consumer Fraud Bureau in Chicago.

13. The other two male Assistant Illinois Attorneys General, over the age of 50, who were terminated on May 12, 2006 and on May 16, 2006, had work performances that were satisfactory or better and were also replaced with individuals who were less qualified, younger than them and, or female.

14. Plaintiff's age or sex was a motivating factor in defendants' decision to terminate his employment on or about May 12, 2006, all in violation of Title VII, 42 U.S.C. Sec. 2000 (e) *et seq.* and the Age Discrimination in Employment Act (ADEA), 29 U.S.C. Sec. 621 *et seq.*

15. Defendants maliciously and intentionally engaged in the above discriminatory conduct which caused severe emotional distress upon plaintiff.

16. As a result of defendants' intentional discriminatory conduct above, plaintiff lost his job, suffered lost wages, lost income, lost employment benefits of the State of Illinois, lost insurance benefits and his ability to pursue his career as a Senior Assistant Attorney General free from discrimination based upon his sex and, or age.

17. As a further result of defendants' intentional discriminatory conduct and harassment as described above, plaintiff has suffered and continues to suffer great emotional stress and strain, humiliation, loss of dignity, embarrassment, and loss of reputation.

18. All acts occurred in the Northern District of Illinois, Eastern Division.

19. Plaintiff demands trial by jury on all issues in this count.

20. On November 3, 2006, plaintiff filed a verified charge of age and sex discrimination against defendants with the Equal Employment Opportunity Commission (EEOC) in Chicago, Illinois.

21. Plaintiff's verified charge of age and sex discrimination was filed at the Illinois Department of Human Rights (IDHR) on November 3, 2006 and the IDHR deferred processing plaintiff's charge to the EEOC pursuant to the work sharing agreement between the EEOC and the IDHR.

22. On July 27, 2007, the EEOC issued a right to sue notice to plaintiff on the above charge of sex and age discrimination filed at the EEOC on November 3, 2006. On July 27, 2007, plaintiff received the EEOC's right to sue notice.

23. On August 23, 2007, plaintiff filed this action, within 90 days of receiving a notice of right to sue complying with all prerequisites for maintaining this action as required by Title VII, 42 U.S.C. Sec. 2000e-2 *et seq.*, and ADEA, 29 U.S.C. Sec. 621 *et seq.*

24. Plaintiff has exhausted all administrative remedies and complied with the statutory prerequisites for maintaining an action under Title VII, 42 U.S.C. Sections 2000e-2 *et seq.*, and the Age Discrimination in Employment Act, 29 U.S.C. Sec. 621 *et seq.*

25. Plaintiff was an employee as defined by Title VII, 42 U.S.C. Sec. 2000 (e) *et seq.*, and the ADEA, 29 U.S.C. Sec. 621 *et seq.*; to wit:

a. Plaintiff, HARVEY N. LEVIN, has not been elected to public office in any State or political subdivision of any State.

b. Plaintiff, HARVEY N. LEVIN, was not chosen by the Illinois Attorney General to be on the Illinois Attorney General's personal staff.

c. At all relevant times herein, the only persons on the Illinois Attorney General's Staff were:

Chief of Staff,
Chief Deputy Illinois Attorney General,
Deputy Chief of Staff,
Two Senior Counsels to the Attorney General,
Deputy Attorney General - Civil Litigation,
Deputy Attorney General - Criminal Justice, and
Deputy Attorney General - Child Support Enforcement.

d. Assistant Attorneys General and Senior Assistant Attorneys General do not have direct contact with the Attorney General during the performance of their duties, and they do not personally report to the Illinois Attorney General. Assistant Attorneys General and Senior Assistant Attorneys General have at least five (5) levels of supervision between them and the Attorney General.

e. Senior Assistant Attorneys General have no discretion and no authority whatsoever in deciding which cases or lawsuits are filed, prosecuted, defended, or settled.

f. Senior Assistant Attorneys General do not have any authority or discretion to decide what words, sentences, or phrases are placed in a lawsuit, or in the resolution of a lawsuit.

g. Senior Assistant Attorneys General do not have more authority than Assistant Attorneys General.

h. Plaintiff, HARVEY N. LEVIN, was not an immediate advisor to the Illinois Attorney General, with respect to the exercise of the constitutional or legal powers of the Illinois Attorney General.

i. Plaintiff was not a policy maker for the Illinois Attorney General, and had no working relationship with the Illinois Attorney General.

j. Assistant Attorneys General and Senior Assistant Attorneys General do not have input into the Attorney General's decision-making on issues.

k. The employment of an Assistant Attorney General or Senior Assistant Attorney General is a career position and does not coincide with the term or terms of office of the Illinois Attorney General.

l. Senior Assistant Attorneys General do not have the ability to implement the policies and goals of the Illinois Attorney General.

m. Senior Assistant Attorneys General do not independently make prosecutorial and other litigation decisions.

n. Assistant Attorneys General and Senior Assistant Attorneys General do not have authority to perform all the duties conferred by law upon the Illinois Attorney General.

26. The salaries, insurance and employment benefits of attorneys employed by the Illinois Attorney General are funded by the State of Illinois.

27. All of the Defendants' discriminatory acts above are in violation of the Age Discrimination in Employment Act, 29 U.S.C. Sec. 621 *et seq.*

WHEREFORE, Plaintiff, HARVEY N. LEVIN, prays this Honorable Court to:

A. Enter judgment in favor of Plaintiff and against Defendants, LISA MADIGAN, in her official capacity as ILLINOIS ATTORNEY GENERAL, the OFFICE of the ILLINOIS ATTORNEY GENERAL, and the STATE OF ILLINOIS, jointly and against each of them;

B. Award plaintiff actual damages in the form of lost wages, lost income, lost compensation and lost benefits and actual damages which plaintiff has suffered;

C. Enter an order against Defendants to cease their unlawful practices;

D. Enter an order requiring Defendants to reinstate or restore plaintiff in his former position of Senior Assistant Attorney General and to award plaintiff all salary and benefits that plaintiff would have received if not for the civil rights violations committed against him by defendants;

E. Award prejudgment interest on all lost wages, income and monies awarded to plaintiff;

F. Enter an order that plaintiff be awarded future damages and, or front damages for lost wages, front pay and all employee benefits he would have received during future years but for defendants' unlawful conduct;

G. Enter an order awarding plaintiff attorney's fees and costs incurred;

H. Enter an order that defendants be required to afford plaintiff equal employment opportunities and that he be made whole as to all wages, employee benefits and seniority or pension benefits plaintiff would have received but for the above civil rights violations committed against him by defendants;

I. Enter a declaratory judgment that defendants' actions constitute unlawful discrimination in violation of Title VII, 42 U.S.C. Sections 2000e-2 *et seq.*, and, or the Age Discrimination In Employment Act (ADEA), 29 U.S.C. Sec. 621 *et seq.*;

J. Enter an order awarding plaintiff an amount equal to twice the sum of the monetary damages awarded to plaintiff for defendants' intentional violations of the ADEA or for defendants' reckless disregard for plaintiff's rights under the ADEA pursuant to 29 U.S.C. Sec. 621, *et seq.*, including 29 U.S.C. Sec. 626(b);

K. Enter an order requiring defendants to remove all allegations that plaintiff had been terminated, from all defendants' records, including plaintiff's personnel file;

L. Enter an order for other relief which this Court deems equitable, proper and just or to make plaintiff whole in accord with Title VII and, or the ADEA;

M. Enter an order that plaintiff be awarded actual or compensatory damages in an amount greater than \$300,000.00 for great stress, pain and suffering, emotional pain and distress, humiliation, loss of dignity, emotional distress, embarrassment, loss of reputation, and mental anguish.

N. Enter an order awarding plaintiff further relief to make him whole.

COUNT II

SEX DISCRIMINATION

1. This action is brought pursuant to Title VII, 42 U.S.C. Section 2000e-2 *et seq.* This Court has jurisdiction of this complaint under 42 U.S.C. Section 2000e-5 *et seq.* as amended, 28 U.S.C. Sections 1331 and 1343 and 745 ILCS 5/1.5. Venue for the acts alleged below is proper in this District.

2-26. Plaintiff realleges and incorporates paragraphs 2 through 26 of Count I as if fully set forth herein as paragraphs 2 through 26 of Count II.

27. All of the Defendants' discriminatory acts above are in violation of Title VII, 42 U.S.C. Sections 2000e-2 *et seq.*

WHEREFORE, Plaintiff, HARVEY N. LEVIN, prays this Honorable Court to:

A. Enter judgment in favor of Plaintiff and against Defendants, LISA MADIGAN, in her official capacity as the ILLINOIS ATTORNEY GENERAL, the OFFICE of the ATTORNEY GENERAL, and the STATE OF ILLINOIS, jointly and against each of them;

B. Award plaintiff actual damages in the form of lost wages, lost income, lost compensation and lost benefits and actual damages which plaintiff has suffered;

C. Enter an order against Defendants to desist in their unlawful practices;

D. Enter an order requiring Defendants to reinstate plaintiff in his former position of Senior Assistant Attorney General and to award plaintiff all salary and benefits that plaintiff would have received if not for defendants' civil rights violations;

E. Award plaintiff prejudgment interest on all lost wages, income and all other monies which are awarded to plaintiff;

F. Enter an order that plaintiff be awarded future damages and, or front damages for lost wages, front pay and all employee benefits he would have received during the future years but for defendants' unlawful conduct;

G. Enter an order awarding plaintiff attorney's fees and costs incurred herein;

H. Enter an order that defendants be required to afford plaintiff equal employment opportunities and that he be made whole as to all wages, employee benefits and seniority or pension benefits plaintiff would have received but for the above civil rights violations committed against him by defendants;

I. Enter a declaratory judgment that defendants' actions violate Title VII, 42 U.S.C. Sec. 2000e-2 *et seq.*, and, or the ADEA, 29 U.S.C. Sec. 621 *et seq.*;

J. Enter an order requiring defendants to destroy records reflecting plaintiff's termination;

K. Enter an order for other relief which this Court deems equitable, proper and just or to make plaintiff whole in accord with Title VII and, or the ADEA;

L. Enter an order that plaintiff be awarded actual or compensatory damages in an amount greater than \$300,000.00 for great stress, pain and suffering, emotional pain and distress, humiliation, loss of dignity, emotional distress, embarrassment, loss of reputation, and mental anguish.

COUNT III

SEX DISCRIMINATION - EQUAL PROTECTION

1. This action is brought pursuant to the Equal Protection Clause of the 14th Amendment to the United States Constitution by and through 42 U.S.C. Section 1983 and jurisdiction arises under 28 U.S.C. Sections 1331 and 1343. Venue for the acts alleged below is proper in this District.

2. At all times herein, defendants, LISA MADIGAN, individually, ANN SPILLANE, individually, ALAN ROSEN, individually, ROGER FLAHAVEN, individually, and DEBORAH HAGEN, individually, acted under color of law, statutes, customs, or ordinances of the State of Illinois.

3. Plaintiff, HARVEY N. LEVIN, sues defendants, ANN SPILLANE, individually, LISA MADIGAN, individually, ALAN ROSEN, individually, ROGER FLAHAVEN, individually, and DEBORAH HAGEN, individually, in their individual capacities.

4. Plaintiff, HARVEY N. LEVIN, is male, 62 years old and resides in Chicago, Cook County, Illinois.

5. At all relevant times herein, defendant, LISA MADIGAN, was the Illinois Attorney General with an office located at the Thompson Center, 100 West Randolph, Chicago, Cook County, IL 60601.

6. At all relevant times herein, defendant, ANN SPILLANE, was the Chief of Staff for the Illinois Attorney General with an office located at the Thompson Center, 100 West Randolph, Chicago, Cook County, IL 60601.

7. At all relevant times herein, defendant, ALAN ROSEN, was the Chief Deputy Illinois Attorney General with an office located at the Thompson Center, 100 West Randolph, Chicago, Cook County, IL 60601.

8. At all relevant times herein, defendant, ROGER P. FLAHAVEN, was the Deputy Illinois Attorney General for Civil Litigation, with an office located at the Thompson Center, 100 West Randolph, Chicago, Cook County, IL 60601.

9. At all relevant times herein, defendant, DEBORAH HAGEN, was the Chief of the Illinois Attorney General's Consumer Protection Division, with offices located in Springfield, Illinois and the Thompson Center, 100 West Randolph, Chicago, Cook County, IL 60601.

10. Since on or about September 5, 2000, plaintiff was employed by the Illinois Attorney General, the OFFICE of the ILLINOIS ATTORNEY GENERAL, and the STATE OF ILLINOIS, as an Assistant Attorney General in the Consumer Fraud Bureau.

11. In 2002, plaintiff was promoted to Senior Assistant Attorney General, the second lowest attorney position.

12. Throughout his employment, plaintiff's job performance was more than satisfactory and he consistently met or exceeded his employer's legitimate job expectations.

13. Defendants' last performance rating of plaintiff prior to May 12, 2006 rated plaintiff as "Exceeds Expectations" - the highest rating on six out of twelve categories and "Meets Expectations" on the remaining performance criteria.

14. Throughout her employment with the Illinois Attorney General, defendant, DEBORAH HAGEN, Chief of the Illinois Attorney General's Consumer Protection Division, preferred that all Assistant Attorneys General be young women.

15. At all relevant times herein, defendant, DEBORAH HAGEN, on many occasions refused to even read resumes or applications for employment for attorney positions that were submitted by male applicants.

16. On or about May 12, 2006, defendant, DEBORAH HAGEN, knowingly urged defendants, LISA MADIGAN, ANN SPILLANE, ALAN ROSEN, and ROGER FLAHAVEN, to intentionally terminate plaintiff's employment because of his sex and his age, which was then 61. Thereafter, each individual defendant knowingly agreed to terminate plaintiff's employment based upon his sex (male) and age (61 years old).

17. On or about May 12, 2006, defendants, DEBORAH HAGEN, knowingly urged defendants, LISA MADIGAN, ANN SPILLANE, ALAN ROSEN, and ROGER FLAHAVEN, to knowingly and intentionally terminate the employment of two other male attorneys assigned to the Illinois Attorney General's Consumer Fraud Bureau in Chicago because of their sex and age, both of whom were over 50 years old.

18. Prior to May 12, 2006, none of the defendants, or anyone employed by the Attorney General, provided plaintiff with any kind of notice or warning that his job performance was anything less than exceeding his employer's expectations.

19. On or about May 12, 2006 and on May 16, 2006, at the Attorney General's Office located at 100 West Randolph, Chicago, Cook County, IL, pursuant to defendants' agreements above, defendants, LISA MADIGAN, ANN SPILLANE, ALAN ROSEN, ROGER FLAHAVEN and DEBORAH HAGEN, knowingly and intentionally terminated plaintiff's employment and two other male attorneys assigned to the Illinois Attorney General's Consumer Protection Division because of their sex and age.

20. On or about May 12, 2006 and on May 16, 2006, pursuant to defendants' discriminatory agreements above, defendants LISA MADIGAN, and ANN SPILLANE knowingly and intentionally instructed defendants, ALAN ROSEN and ROGER FLAHAVEN, to meet with plaintiff at the Attorney General's Office located at 100 West Randolph, Chicago, Cook County, IL and intentionally terminate plaintiff's employment, along with two other male attorneys assigned to the Illinois Attorney General's Consumer Fraud Bureau in Chicago, both of whom were over 50 years old.

21. On May 12, 2006, defendant, ALAN ROSEN, Chief Deputy Attorney General, and defendant, ROGER FLAHAVEN, Deputy Illinois Attorney General for Civil Litigation, summoned plaintiff, HARVEY N. LEVIN, and without explanation, intentionally, knowingly and unlawfully terminated plaintiff because of his sex and age.

22. On May 12, 2006, defendant, ALAN ROSEN, Chief Deputy Attorney General, and defendant, ROGER FLAHAVEN, Deputy Illinois Attorney General for Civil Litigation, summoned one of the other male attorneys, over 50 years old, who was assigned to the Illinois Attorney General's Consumer Protection Division, and without explanation, intentionally and knowingly terminated him because of his sex and age.

23. Since the other male attorney was not in the office on May 12, 2006, a few days later on May 16, 2006, defendant, ALAN ROSEN, Chief Deputy Attorney General, and defendant, ROGER FLAHAVEN, Deputy Illinois Attorney General for Civil Litigation, summoned that male attorney, over 50 years old, assigned to the Illinois Attorney General's Consumer Protection Division, and without explanation, intentionally, knowingly and unlawfully terminated him because of his sex and age.

24. On or about May 12, 2006, defendants, MADIGAN, SPILLANE, ROSEN, FLAHAVEN, and HAGEN, knowingly did not terminate the employment of similarly situated employees whose work performance was inferior to plaintiff's work performance, or defendants, MADIGAN, SPILLANE, ROSEN, FLAHAVEN, and HAGEN, intentionally and knowingly treated plaintiff differently than similarly situated female employees, or these defendants intentionally and knowingly treated plaintiff differently than similarly situated employees substantially younger than plaintiff.

25. On or about May 12, 2006, defendants, MADIGAN, SPILLANE, ROSEN, FLAHAVEN, and HAGEN, knowingly and intentionally terminated plaintiff's employment based on the impermissible considerations of sex and, or age in violation of the Equal Protection Clause.

26. Defendants MADIGAN, SPILLANE, ROSEN, FLAHAVEN, and HAGEN, knowingly replaced plaintiff with an individual who was less qualified than him, who is substantially younger than plaintiff, and is female.

27. The two other male Assistant Illinois Attorneys General, over the age of 50, who were also terminated on or about May 12, 2006, had work performances that were satisfactory or better and were also replaced by defendants with individuals who were less qualified, and substantially younger than them, and, or female.

28. Defendants maliciously and intentionally engaged in the above discriminatory conduct which caused plaintiff severe emotional distress.

29. As a result of defendants' intentional discriminatory conduct above, plaintiff lost his job, suffered lost wages, lost income, lost employment benefits of the State of Illinois, lost insurance benefits and his ability to pursue his career as a Senior Assistant Attorney General free from discrimination based upon his sex and age.

30. As a further result of defendants' intentional discriminatory conduct, plaintiff has suffered and continues to suffer great emotional stress and strain, humiliation, loss of dignity, embarrassment, and loss of reputation.

31. Plaintiff demands trial by jury on all issues in this count.

32. Defendants, LISA MADIGAN, officially as Illinois Attorney General, the OFFICE of the ILLINOIS ATTORNEY GENERAL, and the STATE OF ILLINOIS are necessary defendants in this count for the purpose of awarding prospective and injunctive relief on plaintiff's prayers for relief of reinstatement, front pay, future damages, attorney's fees and all other prospective relief, and are also necessary defendants to indemnify LISA MADIGAN, individually, ANN SPILLANE, individually, ALAN ROSEN, individually, ROGER FLAHAVEN, individually, and DEBORAH HAGEN, individually, for all monetary damage awards, except punitive damages.

33. Plaintiff's sex was a motivating factor in defendants' intentional decision to terminate his employment on or about May 12, 2006, in violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution by and through 42 U.S.C. Section 1983.

WHEREFORE, Plaintiff, HARVEY N. LEVIN, prays this Honorable Court to:

A. Enter judgment in favor of plaintiff, HARVEY N. LEVIN, and against Defendants, LISA MADIGAN, individually, ANN SPILLANE, individually, ALAN ROSEN, individually, ROGER FLAHAVEN, individually, and DEBORAH HAGEN, individually, jointly and against each defendant, and further enter judgment against defendants, LISA MADIGAN in her official capacity as Illinois Attorney General, the OFFICE of the ILLINOIS ATTORNEY GENERAL, and the STATE OF ILLINOIS;

B. Award the plaintiff actual damages in the form of lost wages, lost income, lost compensation, lost insurance benefits, lost employee benefits, and actual damages which Plaintiff has suffered, against all defendants jointly and against each defendant;

C. Award the plaintiff actual damages in the form of future lost wages and, or front pay, against defendants jointly and against each defendant;

D. Enter an order and permanent injunction requiring defendants to reinstate plaintiff to his former position of Senior Assistant Attorney General;

E. Enter an order and permanent injunction requiring defendants to cease and desist in committing the above acts of intentional sex and, or age discrimination;

F. Enter an order that defendants be ordered to remove all allegations of plaintiff's termination from all records;

G. Award plaintiff prejudgment interest on all lost wages, income and all other monies which are awarded to plaintiff against defendants jointly and against each defendant;

H. Enter an order that defendants be required to afford plaintiff equal employment opportunities and that he be made whole as to all wages, employee benefits and pension benefits plaintiff would have received but for the above intentional civil rights violations committed against him by defendants;

I. Award Plaintiff all attorney's fees, expenses and costs incurred herein against all defendants jointly and against each defendant;

J. Award Plaintiff compensatory damages in an amount in excess of \$500,000.00 for humiliation, embarrassment, loss of reputation, loss of dignity, substantial emotional pain and emotional distress, mental anguish, and for defendants' reckless disregard for plaintiff's right to pursue his career with the Illinois Attorney General free from sex, and or age discrimination;

K. Enter a declaratory judgment that the actions of defendants LISA MADIGAN, individually, ANN SPILLANE, individually, ALAN ROSEN, individually, ROGER FLAHAVEN, individually, and DEBORAH HAGEN, individually, constitute unlawful and intentional sex and, or age discrimination in violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution by and through 42 U.S.C. Section 1983;

L. Assess punitive damages against defendants LISA MADIGAN, individually, ANN SPILLANE, individually, ALAN ROSEN, individually, ROGER FLAHAVEN, individually, and DEBORAH HAGEN, individually, in the amount in excess of \$500,000.00.

COUNT IV

AGE DISCRIMINATION - EQUAL PROTECTION

1-32. Plaintiff realleges and incorporates paragraphs 1 through 32 of Count III as if fully set forth herein as paragraphs 1 through 32 of Count IV.

33. Plaintiff's age was a motivating factor in defendants' intentional decision to terminate his employment on or about May 12, 2006, all in violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution by and through 42 U.S.C. Section 1983. Defendants had no rational basis for using age to terminate plaintiff's employment.

WHEREFORE, Plaintiff, HARVEY N. LEVIN, prays this Honorable Court to:

A. Enter judgment in favor of plaintiff, HARVEY N. LEVIN, and against Defendants, LISA MADIGAN, individually, ANN SPILLANE, individually, ALAN ROSEN, individually, ROGER FLAHAVEN, individually, and DEBORAH HAGEN, individually, jointly and against each defendant, and further enter judgment against defendants, LISA MADIGAN in her official capacity as Illinois Attorney General, the OFFICE of the ILLINOIS ATTORNEY GENERAL, and the STATE OF ILLINOIS;

B. Award the plaintiff actual damages in the form of lost wages, lost income, lost compensation, lost insurance benefits, lost employee benefits, and actual damages which Plaintiff has suffered, against all defendants jointly and against each defendant;

C. Award the plaintiff actual damages in the form of future lost wages and, or front pay, against defendants jointly and against each defendant;

D. Enter an order and permanent injunction requiring defendants to reinstate plaintiff to his former position of Senior Assistant Attorney General;

E. Enter an order and permanent injunction requiring defendants to cease and desist in committing the above acts of intentional sex and, or age discrimination;

F. Enter an order that defendants be ordered to remove all allegations of plaintiff's termination from all records;

G. Award plaintiff prejudgment interest on all lost wages, income and all other monies which are awarded to plaintiff against defendants jointly and against each defendant;

H. Enter an order that defendants be required to afford plaintiff equal employment opportunities and that he be made whole as to all wages, employee benefits and pension benefits plaintiff would have received but for the above intentional civil rights violations committed against him by defendants;

I. Award Plaintiff all attorney's fees, expenses and costs incurred herein against all defendants jointly and against each defendant;

J. Award Plaintiff compensatory damages in an amount in excess of \$500,000.00 for humiliation, embarrassment, loss of reputation, loss of dignity, substantial emotional pain and emotional distress, mental anguish, and for defendants' reckless disregard for plaintiff's right to pursue his career with the Illinois Attorney General free from sex, and or age discrimination;

K. Enter a declaratory judgment that the actions of defendants LISA MADIGAN, individually, ANN SPILLANE, individually, ALAN ROSEN, individually, ROGER FLAHAVEN, individually, and DEBORAH HAGEN, individually, constitute unlawful and intentional sex and, or age discrimination in violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution by and through 42 U.S.C. Section 1983;

L. Assess punitive damages against defendants LISA MADIGAN, individually, ANN SPILLANE, individually, ALAN ROSEN, individually, ROGER FLAHAVEN, individually, and DEBORAH HAGEN, individually, in the amount in excess of \$500,000.00.

DATED: September 26, 2007

HARVEY N. LEVIN
Plaintiff

S/ Edward R. Theobald
EDWARD R. THEOBALD, Attorney for plaintiff

Edward R. Theobald (2814595)
Law Offices of Edward R. Theobald
Three First National Plaza,
70 West Madison Street, Suite 2030
Chicago, IL 60602
(312) 346-9246

EXHIBIT B

2. Plaintiff, HARVEY N. LEVIN, is 62 years old and resides in Chicago, Cook County, Illinois.

3. Defendants, Lisa Madigan, Illinois Attorney General, the Office of the Illinois Attorney General, and the State of Illinois, hereinafter referred to as "defendants" are located at the Thompson Center, 100 West Randolph, 12th Floor, Chicago, Cook County, IL 60601.

4. Defendants employ in excess of 500 employees and are employers defined by Title VII, 42 U.S.C. Sec. 2000 (e) *et seq.*, and the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. Sec. 621 *et seq.*

5. Since on or about September 5, 2000, plaintiff was employed by Defendants as an Assistant Attorney General in the Consumer Fraud Bureau.

6. In 2002 he was promoted to the position of Senior Assistant Attorney General.

7. Throughout his employment, plaintiff's job performance was more than satisfactory and he consistently met his employer's legitimate job expectations.

8. Defendants' last performance rating of plaintiff prior to May 12, 2006 rated plaintiff as "Exceeds Expectations" – the highest rating on six out of twelve categories and "Meets Expectations" on the remaining performance criteria.

9. On or about May 12, 2006, defendants intentionally discriminated against plaintiff due to his age and sex and unlawfully terminated plaintiff's employment.

10. Defendants did not terminate the employment of similarly situated employees whose work performance was inferior to plaintiff's work performance.

11. Defendants replaced plaintiff with an individual who was less qualified than him, who is younger than plaintiff, or who is female.

12. On or about May 12, 2006, defendants intentionally terminated two other male Assistant Illinois Attorneys General, over the age of 50, in the Consumer Fraud Bureau.

13. The other two male Assistant Illinois Attorneys General, over the age of 50, who were also terminated on May 12, 2006, had work performances that were satisfactory or better and were also replaced with individuals who were less qualified, younger than them, or were female.

14. Plaintiff's age or sex was a motivating factor in defendants' decision to terminate his employment on or about May 12, 2006, all in violation of Title VII, 42 U.S.C. Sec. 2000 (e) *et seq.* and the Age Discrimination in Employment Act (ADEA), 29 U.S.C. Sec. 621 *et seq.*

15. Defendants maliciously and intentionally engaged in the above conduct with the intent to inflict severe emotional distress upon plaintiff or defendants knew that there was a high probability that such conduct would cause plaintiff severe emotional distress.

16. As a result of defendants' intentional discriminatory conduct above, plaintiff lost his job, suffered lost wages, lost income, lost employment benefits of the State of Illinois, lost insurance benefits and his ability to pursue his career as a Senior Assistant Attorney General free from discrimination based upon his sex and, or age.

17. As a further result of defendants' intentional discriminatory conduct and harassment above, plaintiff has suffered and continues to suffer great emotional stress and strain, humiliation, loss of dignity, embarrassment, and loss of reputation.

18. All acts complained of occurred in the Northern District of Illinois, Eastern Division.

19. Plaintiff demands trial by jury.

20. On November 3, 2006, plaintiff filed a verified charge of age and sex discrimination against defendants with the Equal Employment Opportunity Commission (EEOC) in Chicago, Illinois.

21. Plaintiff's verified charge of age and sex discrimination was filed at the Illinois Department of Human Rights (IDHR) within 180 days of November 3, 2006 and the IDHR deferred processing of plaintiff's charge to the EEOC pursuant to the work sharing agreement between the EEOC and the IDHR.

22. On July 27, 2007, the EEOC issued a right to sue notice to plaintiff on the above charge of sex and age discrimination filed at the EEOC on November 3, 2006. On July 27, 2007, plaintiff received the EEOC's right to sue notice.

23. Plaintiff filed this action within 90 days of receiving the above notice of right to sue complying with all prerequisites for maintaining this action as required by Title VII, 42 U.S.C. Sections 2000e-2 *et seq.*, and the ADEA, 29 U.S.C. Sec. 621 *et seq.*

24. Plaintiff has exhausted all administrative remedies and complied with the statutory prerequisites for maintaining an action under Title VII, 42 U.S.C. Sections 2000e-2 *et seq.*, and the Age Discrimination in Employment Act, 29 U.S.C. Sec. 621 *et seq.*

25. All of the Defendants' discriminatory acts above are in violation of the Age Discrimination in Employment Act, 29 U.S.C. Sec. 621 *et seq.*

WHEREFORE, Plaintiff, HARVEY N. LEVIN, prays this Honorable Court to:

- A. Enter judgment in favor of Plaintiff and against Defendants, Lisa Madigan, Illinois Attorney General, the Office of the Illinois Attorney General, and the State of Illinois, jointly and against each of them;
- B. Award plaintiff actual damages in the form of lost wages, lost income, lost compensation and lost benefits and actual damages which plaintiff has suffered;
- C. Enter an order against Defendants to cease their unlawful practices;
- D. Enter an order that plaintiff be awarded punitive damages and assess punitive damages against Defendants for willful violations of Title VII of the United States Code, 42 U.S.C Section 2000 (c) *et seq.*, or the ADEA, 29 U.S.C. Sec. 621 *et seq.*, in an amount greater than \$300,0000.00.

E. Enter an order requiring Defendants to reinstate or restore plaintiff in his former position of Senior Assistant Attorney General and to award plaintiff all salary and benefits that plaintiff would have received if not for the civil rights violations committed against him by defendants;

F. Award plaintiff prejudgment interest on all lost wages, income and all other monies which are awarded to plaintiff;

G. Enter an order that plaintiff be awarded future damages and, or front damages for lost wages, front pay and all employee benefits he would have received during the next seven years but for defendants' unlawful conduct;

H. Enter an order awarding plaintiff attorney's fees and costs incurred;

I. Enter an order that defendants be required to afford plaintiff equal employment opportunities as to all regular assignments and that he be made whole as to all wages, employee benefits and seniority benefits plaintiff would have received but for the above civil rights violations committed against him by defendants;

J. Enter a declaratory judgment that defendants' actions constitute unlawful discrimination in violation of Title VII, 42 U.S.C. Sections 2000e-2 *et seq.*, and, or the Age Discrimination In Employment Act (ADEA), 29 U.S.C. Sec. 621 *et seq.*;

K. Enter an order awarding plaintiff an amount equal to twice the sum of the monetary damages awarded to plaintiff for defendants' intentional violations of the ADEA or for defendants' reckless disregard for plaintiff's rights under the ADEA pursuant to 29 U.S.C. Sec. 621, *et seq.*, including 29 U.S.C. Sec. 626(b);

L. Enter an order requiring defendants to remove all allegations that plaintiff had been terminated, from all defendants' records, including from plaintiff's personnel file;

M. Enter an order for other relief which this Court deems equitable, proper and just or to make plaintiff whole in accord with Title VII and, or the ADEA;

N. Enter an order that plaintiff be awarded actual or compensatory damages in an amount greater than \$300,000.00 for great stress, pain and suffering, emotional pain and distress, humiliation, loss of dignity, emotional distress, embarrassment, loss of reputation, mental anguish, or defendants' interference with plaintiff's right to pursue his career free from defendants' civil rights violations;

O. Enter an order awarding plaintiff further relief to make him whole.

COUNT II

SEX DISCRIMINATION

1. This action is brought pursuant to Title VII, 42 U.S.C. Section 2000e-2 *et seq.* This Court has jurisdiction of this complaint under 42 U.S.C. Section 2000e-5 *et seq.* as amended, 28 U.S.C. Sections 1331 and 1343 and 745 ILCS 5/1.5. Venue for the acts alleged below is proper in this District.

2-24. Plaintiff realleges and incorporates paragraphs 2 through 22 of Count I as if fully set forth herein as paragraphs 2 through 24 of Count II.

25. All of the Defendants' discriminatory acts above are in violation of Title VII, 42 U.S.C. Sections 2000e-2 *et seq.*

WHEREFORE, Plaintiff, HARVEY N. LEVIN, prays this Honorable Court to:

- A. Enter judgment in favor of Plaintiff and against Defendants, Lisa Madigan, Illinois Attorney General, the Office of the Illinois Attorney General, and the State of Illinois, jointly and against each of them;
- B. Award plaintiff actual damages in the form of lost wages, lost income, lost compensation and lost benefits and actual damages which plaintiff has suffered;
- C. Enter an order against Defendants to desist in their unlawful practices;

D. Enter an order that plaintiff be awarded punitive damages and assess punitive damages against Defendants for willful violations of Title VII of the United States Code, 42 U.S.C Section 2000 (e) *et seq.*, or the ADEA, 29 U.S.C. Sec. 621 *et seq.*, in an amount greater than \$300,0000.00;

E. Enter an order requiring Defendants to reinstate or restore plaintiff in his former position of Senior Assistant Attorney General and to award plaintiff all salary and benefits that plaintiff would have received if not for the civil rights violations committed against him by defendants;

F. Award plaintiff prejudgment interest on all lost wages, income and all other monies which are awarded to plaintiff;

G. Enter an order that plaintiff be awarded future damages and, or front damages for lost wages, front pay and all employee benefits he would have received during the next seven years but for defendants' unlawful conduct;

H. Enter an order awarding plaintiff attorney's fees and costs incurred herein;

I. Enter an order that defendants be required to afford plaintiff equal employment opportunities as to all regular assignments and that he be made whole as to all wages, employee benefits and seniority benefits plaintiff would have received but for the above civil rights violations committed against him by defendants;

J. Enter a declaratory judgment that defendants' actions constitute unlawful discrimination in violation of Title VII, 42 U.S.C. Sections 2000e-2 *et seq.*, and, or the Age Discrimination In Employment Act (ADEA), 29 U.S.C. Sec. 621 *et seq.*;

K. Enter an order requiring defendants to remove all allegations that plaintiff had been terminated, from all defendants' records;


L. Enter an order for other relief which this Court deems equitable, proper and just or to make plaintiff whole in accord with Title VII and, or the ADEA;

M. Enter an order that plaintiff be awarded actual or compensatory damages in an amount greater than \$300,000.00 for great stress, pain and suffering, emotional pain and distress, humiliation, loss of dignity, emotional distress, embarrassment, loss of reputation, mental anguish, or defendants' interference with plaintiff's right to pursue his career free from defendants' civil rights violations;

N. Enter an order awarding plaintiff such other and further relief to make him whole.

DATED: August 21, 2007

HARVEY N. LEVIN
Plaintiff

By: 
EDWARD R. THEOBALD
Plaintiff's Attorney

EDWARD R. THEOBALD
Three First National Plaza
70 West Madison Street
Suite 2030
Chicago, IL 60602
(312) 346-9246

EXHIBIT C

**OFFICE OF THE ILLINOIS ATTORNEY GENERAL
JOB DESCRIPTION**

Position: Assistant Attorney General - Class I

Bureau: Various

Summary of Duties and Responsibilities:

The Assistant Attorney General - Class 1 performs professional legal work in the Attorney General's office. He or she conducts legal research and represents the Attorney General in legal proceedings as assigned. The work is performed under the supervision of a Bureau Chief or Assistant Bureau Chief.

In performing his or her duties the Assistant Attorney General prepares and tries cases in various courts; interviews witnesses, prepares motions and conducts research for future trials; responds to pretrial motions filed by defendants; attends various courts for arraignments, hearings, pretrial and post trial motions; handles legal aspects of cases and prepares periodic activity reports.

Minimum Qualifications:

This position requires completion of the core curriculum for graduation from an accredited law school. Additional requirements include knowledge of and skills in: the principles of civil and criminal law and of the methods and practices of pleading and discovery; knowledge of judicial procedures and of the rules of evidence; knowledge of the principles, methods, materials, practices and references utilized in legal research; skills for analyzing, appraising and organizing facts, evidence and precedents to ascertain the determining aspects of cases and to present such material in a clear and logical form; skills for presenting and arguing cases in court and/or administrative hearings and handling unanticipated problems smoothly; skills for establishing and maintaining effective work relations with court officials, State officials, co-workers and the general public. Membership in the Illinois State Bar is required. Attendance is an essential function of this position.

**OFFICE OF THE ILLINOIS ATTORNEY GENERAL
JOB DESCRIPTION**

Position: Assistant Attorney General - Class 2

Bureau: Various

Summary of Duties and Responsibilities:

The Assistant Attorney General - Class 2 performs professional legal work with more independence than a Assistant Attorney General Class 1. He or she conducts legal research and represents the Attorney General in moderately complex legal proceedings as assigned. The work is performed under the supervision of a Bureau Chief or Assistant Bureau Chief.

In performing his or her duties the Assistant Attorney General prepares and tries cases in various courts; interviews witnesses, prepares motions and conducts research for future trials; responds to pretrial motions filed by defendants; attends various courts for arraignments, hearings, pretrial and post trial motions and prepares periodic activity reports.

Minimum Qualifications:

This position requires completion of the core curriculum for graduation from an accredited law school along with experience in the Attorney General's office as an Assistant Attorney General for at least one year, or comparable experience in the practice of law. Additional requirements include knowledge of and skills in: the principles of civil and criminal law and of the methods and practices of pleading, discovery and litigation; knowledge of judicial procedures and of the rules of evidence; knowledge of the principles, methods, materials, practices and references utilized in legal research; skills for analyzing, appraising and organizing facts, evidence and precedents to ascertain the determining aspects of cases and to present such material in a clear and logical form; skills for presenting and arguing cases in court and/or administrative hearings, handling unanticipated problems smoothly; skills for establishing and maintaining effective working relations with court officials, State officials, co-workers and the general public. Membership in the Illinois State Bar is required. Attendance is an essential function of this position.

**OFFICE OF THE ILLINOIS ATTORNEY GENERAL
JOB DESCRIPTION**

Position: Assistant Attorney General - Class 3

Bureau: Various

Summary of Duties and Responsibilities:

The Assistant Attorney General - Class 3 performs a high level of professional legal work with more independence than a Assistant Attorney General - Class 2. He or she conducts legal research and represents the Attorney General in generally complex legal proceedings as assigned. The work is performed under the supervision of a Bureau Chief or Assistant Bureau Chief.

In performing his or her duties the Assistant Attorney General prepares and tries cases in various courts; interviews witnesses, prepares motions and conducts research for future trials; responds to pretrial motions filed by defendants; attends various courts for arraignments, hearings, pretrial and post trial motions; assists in the training and guidance of Assistant Attorneys General and prepares periodic activity reports.

Minimum Qualifications:

This position requires completion of the core curriculum for graduation from an accredited law school and experience in the practice of law and in trial or appellate work, along with experience in the Attorney General's office as an Assistant Attorney General for approximately five years, or comparable experience in the practice of law. Additional requirements include knowledge of and skills in: the principles of civil and criminal law and of the methods and practices of pleading, discovery and litigation; knowledge of judicial procedures and of the rules of evidence; knowledge of the principles, methods, materials, practices and references utilized in legal research; skills for analyzing, appraising and organizing facts, evidence and precedents to ascertain the determining aspects of cases and to present such material in a clear and logical form; knowledge and skills for presenting and arguing cases in court and/or administrative hearings, handling unanticipated problems smoothly; knowledge and skills for establishing and maintaining effective working relations with court officials, State officials, co-workers and the general public. Membership in the Illinois State Bar is required. Attendance is an essential function of this position.

EXHIBIT D

**OFFICE OF THE ILLINOIS ATTORNEY GENERAL
JOB DESCRIPTION**

Position: Senior Assistant Attorney General

Bureau: Various

Summary of Duties and Responsibilities:

A Senior Assistant Attorney General conducts complex legal research and represents the Attorney General in legal proceedings as assigned. The Senior Assistant Attorney General shall independently make prosecutorial and other litigation decisions. He or she shall prepare and try cases in various courts, interview witnesses, prepare motions and conduct research for future trials. The Senior Assistant Attorney General shall respond to pretrial motions filed by defendants. He or she shall attend various courts for arraignments, hearings, pretrial and post trial motions. The work is performed under the general supervision of a Bureau Chief or Assistant Bureau Chief.

Minimum Qualifications:

This position requires knowledge of the principles of civil and criminal law and of the methods and practices of pleading, discovery and litigation; knowledge of judicial procedures and of the rules of evidence; knowledge of the principles, methods, materials, practices and references utilized in legal research. The position requires completion of the core curriculum for graduation from an accredited law school and experience in the practice of law and in trial of appellate work along with approximately 10 years experience in the Attorney General's office as an Assistant Attorney General, or comparable experience in the practice of law. Membership in the Illinois State Bar is required. Other skills required include: analyzing, appraising and organizing facts, evidence and precedents to ascertain the determining aspects of cases and to present such material in a clear and logical form; skills in establishing and maintaining effective work relations with court officials, State Officials, co-workers and the general public. Attendance and the ability to maintain satisfactory working relationships with other employees are essential functions of this position.

EXHIBIT E

Jackson v. Casey

N.D.Ill.,2007.

Only the Westlaw citation is currently available.

United States District Court,N.D. Illinois,Eastern
 Division.

Darryl W. JACKSON, et al., Plaintiffs,

v.

Michael J. CASEY, et al., Defendants.

No. 07 C 5348.

Sept. 25, 2007.

Darryl W. Jackson, Bloomington, IL, pro se.

MEMORANDUM ORDER

MILTON I. SHADUR, Senior United States District
 Judge.

*1 Darryl Jackson ("Jackson") has just filed a thick Complaint and attached exhibits ^{FN1} targeting three defendants: Michael Casey of the Illinois Department of Children and Family Services, Dr. Eva Wyrwa of Glen Ellyn Clinic Pediatrics Group and Dr. Jayshree Vajaria of Central DuPage Hospital. As always, this Court's first obligation is to determine the existence or nonexistence of subject matter jurisdiction (see, e.g., *Cook v. Winfrey*, 141 F.3d 322, 325 (7th Cir.1998)), an obligation that compels this Court to act sua sponte if that inquiry produces a negative answer (see, e.g., *Wernsing v. Thompson*, 423 F.3d 732, 743 (7th Cir.2005)).

FN1. More precisely, the Complaint comprises 19 short paragraphs occupying just four pages, with the bulk of Jackson's submission consisting of extensive exhibits that set out the history of medical treatment of 15-month-old Juliet Nykai Jackson, whom Jackson lists as an additional plaintiff.

What Jackson complains about is the assertedly improper medical treatment of his infant daughter, a subject as to which this Court of course expresses no opinion (for purposes of evaluating Jackson's Complaint, his allegations must be accepted as true without this Court's making any actual findings in that respect). But the only basis on which Jackson seeks to enter the federal courthouse door is via several skeletal and purely conclusory

characterizations: an unsupported reference to "Racial Targeting" and "Race Discrimination" in Complaint ¶ 2, a similarly unsupported reference to "Racial Bias" in Complaint ¶ 6 and two similarly unsupported uses of the terms "Maliciously & Racially" in Complaint ¶¶ 9 and 17.

Just this last Term the United States Supreme Court redefined the standard for testing federal complaints in *Bell Atlantic Corp. v. Twombly*, ---U.S. ---, ---, -- n. 14, 127 S.Ct. 1955, 1965, 1973 n. 14, 167 L.Ed.2d 929 (2007) by imposing a requirement of "plausibility" on a plaintiff's allegations in place of the more generous standard announced a half century ago in *Conley v. Gibson*, 355 U.S. 41, 47, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957). This Court's search of the thick Complaint exhibits reveals that Jackson's conclusory playing of the race card as described in the preceding paragraph is totally speculative, rather than plausible, so that he has clearly failed the *Bell Atlantic* test.

Too often nonlawyer litigants mistake the federal courts as a place where every wrong can be righted. Not so-instead, federal courts' subject matter jurisdiction is limited to the matters that Congress has specifically conferred upon them. It is possible that Jackson may have legitimate complaints about the treatment to which he and his daughter have been subjected (again matters on which this Court expresses no opinion), but if so he must advance those grievances in a state court of competent jurisdiction. Accordingly both the Complaint and this action are dismissed sua sponte, without prejudice to Jackson's possible pursuit of his claims elsewhere.

N.D.Ill.,2007.

Jackson v. Casey
 Slip Copy, 2007 WL 2792150 (N.D.Ill.)

END OF DOCUMENT