

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

Ronald O'Hara,
Plaintiff,

-against-

COMPLAINT

Dow Jones, Inc. and National Delivery Service, Inc.,
Defendants.

Plaintiff as and for his complaint by his undersigned counsel, alleges as follows:

INTRODUCTION

1. This is an action to remedy unlawful employment practices in violation of the plaintiff's rights under the Age Discrimination in Employment Act and the New York State Executive Law.

THE PARTIES

2. At all times mentioned herein, plaintiff was an employee within the meaning of the Age Discrimination in Employment Act (29 U.S.C.A. § 621-634) protected against discrimination in employment on the basis of his age and was a member of the protected group of workers 40 years of age or older.

3. At all times mentioned herein, defendants were an employers within the meaning of the

Age Discrimination in Employment Act (29 U.S.C.A. s. 621-634), and as such was prohibited from discriminating in employment on the basis of age.

JURISDICTION AND VENUE ALLEGATIONS

4. Plaintiff filed a timely charge with the Equal Employment Opportunity Commission and received a notice March 8, 2006 of his right to sue in United States District Court pursuant to 42 U.S.C.A. s. 2000e, permitting plaintiff to bring this action. That Right To Sue Letter is attached hereto as Exhibit "A" and is incorporated herein by reference. Plaintiff has therefore exhausted all available and required administrative remedies.

AS AND FOR A FIRST CAUSE OF ACTION

Alleging a violation of the Age Discrimination in Employment Act

5. Plaintiff hereby repeats and re-alleges each allegation contained in paragraphs 1 through 4 above.
6. Plaintiff worked as a delivery manager for defendant since 1996.
7. Plaintiff was sixty-nine (69) years old at the time of his termination in March 2005.
8. Plaintiff had a good work record with defendant..
9. Plaintiff has been discriminated against by defendant on the basis of his age in violation of the Age Discrimination in Employment Act (29 U.S.C.A. § 621, et seq.) by defendant's engaging in a course of conduct which included: terminating his employment and upon information and belief, replacing him with a substantially younger worker .
10. Plaintiff was fired in March 2005 for allegedly violating work rules.
11. Plaintiff was not aware that he was violating any rule and was operating as he always had in the past nine years

12. Plaintiff was told by a co-worker that he was fired for age reasons and that the alleged rule violation was merely a pre-text.

13. Plaintiff has been unable, despite reasonable efforts, to find comparable employment.

14. As a proximate result of the foregoing, plaintiff has been denied employment; has lost wages, benefits, promotional opportunities and bonuses; and has incurred damages thereby.

AS AND FOR A SECOND CAUSE OF ACTION

Pleading a Cause of Action for Discrimination on the Basis of a Age under

N.Y. S. Executive Law § 296(1)

15. Plaintiff hereby repeats and re-alleges each allegation contained in paragraphs 1 through 14, as if fully set forth herein.

16. Plaintiff alleges that the conduct as described by the preceding paragraphs is also a violation of the New York State Executive Law § 296(1).

17. Plaintiff has been unable, despite reasonable efforts, to find comparable employment.

18. As a result of the foregoing, plaintiff has been denied employment; has lost wages, benefits, promotional opportunities, and bonuses; has suffered mental anguish, emotional distress and loss of enjoyment of life; and has incurred damages thereby.

WHEREFORE, plaintiff prays that this Court grant judgment to him containing the following relief:

19. An award to plaintiff of his actual damages in an amount to be determined at trial for loss of wages, benefits, and promotional opportunities, including an award of front pay

compensating plaintiff for loss of future salary and benefits;

20. An award to plaintiff of double her actual damages in an amount to be determined at trial as liquidated damages under 29 U.S.C.A. s. 626(b);

21. An award to plaintiff of the costs of this action, together with his reasonable attorneys' fees; and

22. Such other and further relief as this Court finds just and proper.

JURY DEMAND

23. Plaintiff demands a jury trial for all claims stated herein.

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:

Ronald O'Hara , being duly sworn, deposes and says that he is the plaintiff in the within action; that deponent has read the foregoing and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters deponent believes it to be true.

s/ Ronald O'Hara

Sworn to before me this 2nd

day of June, 2006.

Notary Public

Dated: June 2, 2006

s/ George S. Mehallow
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