

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>EQUAL EMPLOYMENT OPPORTUNITY</b>	)	<b>CIVIL ACTION NO.</b>
<b>COMMISSION,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	<b><u>COMPLAINT AND</u></b>
	)	<b><u>JURY TRIAL DEMAND</u></b>
	)	
<b>DHL EXPRESS (USA),INC.</b>	)	
	)	
<b>Defendant.</b>	)	
	)	
	)	

**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 John T. Stricker. The United States Equal Employment Opportunity Commission alleges that DHL Express (USA), Inc. failed to hire John T. Stricker because of his age, as articulated with greater particularity below in Paragraph 7. As a result of this discriminatory practice Mr. Stricker has suffered damages including backpay losses and other monetary damages.

## **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 Sections 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 committed within the jurisdiction of the United States District Court for the Northern District of Ohio, Eastern Division.

## **PARTIES**

3. Plaintiff, the Equal Employment Opportunity Commission (the "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 Employer, DHL Express (USA), Inc. (the “Employer”), has continuously been an Ohio corporation doing business in the State of Ohio, County of Cuyahoga and has continuously had at least 20 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 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).

## STATEMENT OF CLAIMS

7. Since at least on or about March 1 of 2005, Defendant Employer has engaged in unlawful employment practices at its facilities located in Beachwood and Middleburg Heights, Cuyahoga County, Ohio in violation of Section 4(a)(1) of the ADEA, 29 U.S.C. § 623 (a)(1). The practices include the failure to hire John T. Stricker as a Delivery Driver/Courier Guard because of his age, 53. Mr. Stricker sought employment with the Employer as a Delivery Driver/ Courier Guard beginning on or about February 1, 2005 at both its Beachwood, Ohio and Middleburg Heights, Ohio locations. The Employer notified Mr. Stricker that he would not be hired on or about March 1, 2005. Less qualified individuals under the age of 40 were hired by the Employer for the position of Deliver Driver/Courier Guard.

8. The effect of the practices complained of in Paragraph 7 above has been to deprive John T. Stricker of equal employment opportunities and otherwise adversely affect his status as an applicant and employee because of his age, 53 in violation of the ADEA..

9. The unlawful practices complained of in Paragraphs 7 and 8 above were 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 Employer, its officers,

successors, assigns and all persons in active concert or participation with it, from engaging in hiring practices which discriminate on the basis of age and any other employment practice which discriminates on the basis of age against individuals 40 years of age and older.

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

C. Order Defendant Employer to institute and carry out a training program which shall promote supervisor accountability imposing on all managers and supervisory personnel a duty to actively monitor their work areas to ensure compliance with the ADEA and/or Defendant's policies on non-discrimination.

D. Grant a judgment requiring Defendant Employer to pay appropriate back wages in an amount to be determined at trial, an equal sum as liquidated damages, and prejudgment interest to individuals whose wages are being unlawfully withheld as a result of the acts complained of above, including but not limited to John T. Stricker.

E. Order Defendant Employer to make whole all individuals adversely affected by the unlawful practices described above, by providing affirmative relief necessary to eradicate the effects of its unlawful practices, including but not limited to the right-ful place hiring of John T. Stricker.

F. Grant such further relief as the Court deems necessary and proper in the public interest.

G. Award the Commission its costs in this action.

**JURY TRIAL DEMAND**

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

Respectfully submitted,

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