



JURISDICTION AND VENUE

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is also 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.

3. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Southern District of Texas, Houston Division, pursuant to 28 U.S.C. § 1391(b).

PARTIES

4. Plaintiff, the Equal Employment Opportunity Commission (the “EEOC” or “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.

5. At all relevant times, Defendant JC Wings Enterprises, LLC (d/b/a Bayou City Wings) has continuously been a corporation doing business in the State of Texas, with restaurants in Pasadena, Baytown, and Houston, Texas, and it has continuously had more than twenty employees.

6. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).

STATEMENT OF CLAIMS

7. On November 13, 2013, the Director of the Houston District Office of the Equal Employment Opportunity Commission issued Defendant notice that it would investigate its compliance with the ADEA.

8. Upon concluding the investigation, the Commission issued a Letter of Determination to Defendant, on June 15, 2015, finding reasonable cause to believe that Defendant engaged in unlawful employment practices prohibited by the ADEA and that Defendant violated federal regulations by destroying the applications of unsuccessful applicants.

9. The Letter of Determination included an invitation that Defendant join the Commission in informal methods of conference and conciliation in an attempt to eliminate and remedy the alleged unlawful employment practices.

10. The Commission contacted Defendant to provide it the opportunity to remedy the discriminatory practices described in the Letter of Determination. The Commission also held a face to face meeting with Defendant's owner and legal representative and sought to solicit Defendant's input in order to reach a fair resolution of the matter.

11. After engaging in discussions with Defendant, the EEOC was unable to obtain a conciliation agreement acceptable to the Commission, and the Commission consequently issued and mailed, on December 15, 2015, a Notice of Conciliation Failure to the Defendant.

12. All conditions precedent to the institution of this lawsuit have been fulfilled.

13. Since at least 2008, Defendant has engaged in unlawful employment practices at their Houston metropolitan area restaurants in violation of Section 4 of the ADEA, 29 U.S.C. § 623(a). These unlawful practices include, but are not limited to, the following:

(a) Since at least 2008, Defendant has intentionally discriminated against individuals, 40 years and older (the “protected age group”) by denying them employment opportunities in front of house positions.

(b) Since at least 2008, Defendant’s failure to hire protected age group applicants to front of house positions constitutes a pattern or practice of discrimination against individuals age 40 and older.

(c) Between 2008 and 2014, Defendant employed about one front of house employee in the protected age group at its Pasadena restaurant. Between 2008 and 2014, Defendant employed no front of house employees in the protected age group at its Houston restaurant. Also between 2008 and 2014, Defendant employed about three protected age group, front of house employees at its Baytown location. To a statistically significant degree, the representation of protected age group, front of house staff in Defendant’s restaurants is considerably lower than the representation of front of house employees, 40 and older in the greater Houston area restaurant industry.

(d) Defendant has both directly and implicitly ordered and instructed its managers to not hire and recruit job seekers in the protected age group. For example, on or about April 13, 2013, Defendant disciplined and terminated a General Manager because he wanted to hire a 72 year old applicant as a restaurant host.

(e) Since at least 2008 to about November 2013, Defendant has failed, in violation of Section 7(a) of the ADEA, 29 U.S.C. § 626(a) and 29 C.F.R. 1627.3(b)(1)(i), to make or preserve records, including the job applications, resumes and other forms of employment inquiry concerning unsuccessful applicants for employment.

14. The effect of the practices complained of in paragraphs 13(a) through (e) above has been to deprive a class of potential employees in the protected age group equal employment opportunities and otherwise to affect adversely their status as applicants or potential employees because of their age.

15. The unlawful employment practices complained of in paragraphs 13(a) through (e) 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, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of age.
- B. Order Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for individuals in the protected age group, and which eradicate the effects of their past and present unlawful employment practices.
- C. Grant a judgment requiring Defendant to pay appropriate back wages in an amount to be determined at trial, an equal sum as liquidated damages, and prejudgment interest to individuals unlawfully denied employment and wages as a result of the acts complained of above, including but not limited to, individuals in the protected age group that were not hired because of their age.
- D. Order Defendant to make whole all individuals adversely affected by the unlawful practices described above, by providing the affirmative relief necessary to eradicate the effects of their unlawful practices, including but not limited to reinstatement, provide front

pay in lieu of reinstatement, or otherwise make whole individuals denied employment because of their age.

- E. Order Defendant to advertise, at their expense, to identify presently unidentified protected age group applicants.
- F. Order Defendant to provide training on the ADEA to all managers and human resources staff.
- G. Grant such further relief as the Court deems necessary and proper in the public interest.
- H. Award the Commission its costs of this action.

**JURY TRIAL DEMAND**

Pursuant to Federal Rules of Civil Procedure 38 and 39, Plaintiff requests a jury trial on all issues raised in the instant Complaint which may be tried by a jury.

Respectfully submitted,

**EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION**

P. DAVID LOPEZ  
General Counsel

JAMES LEE  
Deputy General Counsel

GWENDOLYN YOUNG REAMS  
Associate General Counsel  
131 M Street, N.E.  
Washington, D.C. 20507

/s/ Claudia Molina-Antanaitis  
Claudia Molina-Antanaitis  
Attorney-in-Charge  
Bar No. (none – Maryland)  
Southern Dist. of Texas No. 1037069  
Equal Employment Opportunity Commission  
1919 Smith Street, 6<sup>th</sup> Floor

Houston, Texas 77002  
(713) 651-4952  
(713) 651-7995 [facsimile]  
claudia.molina@eoc.gov

OF COUNSEL:

Jim Sacher  
Regional Attorney

Rose Adewale-Mendes  
Supervisory Trial Attorney  
Equal Employment Opportunity Commission  
1919 Smith Street, 6<sup>th</sup> Floor  
Houston, Texas 77002