

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

FILED
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U.S. DISTRICT COURT
N.D. OF ALABAMA

GERALD STAPLER,

Plaintiff,

vs.

Case No: CV-02-

CHUGACH MANAGEMENT
SERVICES, INC.,

Defendant.

COMPLAINT

1. This action seeks declaratory, injunctive and equitable relief, compensatory and punitive damages, and costs and attorney's fees for age discrimination suffered by the plaintiff, Gerald Stapler, while employed by Chugach Management Services, Inc.

JURISDICTION

2. Jurisdiction is appropriate pursuant to 28 U.S.C. §§1331, 1332, 1343, and 1367, and under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621 et seq. Plaintiff filed a charge of age discrimination with the Equal Employment Opportunity Commission ("EEOC") on April 24, 2001, within 180 days of the most recent discriminatory action. (Complaint Exhibit 1). Plaintiff has exhausted the administrative processes available with regard to his claims. All administrative procedures available to the plaintiff have been pursued without

adequate or effective remedy against defendant for defendant's actions, and Mr. Stapler has received his "Right to Sue" letter from the EEOC. (Complaint Exhibit 2). The EEOC mailed the notice on July 31, 2002. Stapler received his "Right to Sue" notice on or about August 5, 2002.

VENUE

3. Venue is appropriate in this court pursuant to 28 U.S.C. §1391(b) and 29 U.S.C. § 621 et seq.

PARTIES

4. Gerald Stapler ("Stapler") is a 61-year-old Caucasian male. He is a resident of Madison County, Alabama, and was employed as a "Lawn Supervisor" by defendant from April of 1999 until November 9, 2001.

5. Defendant Chugach Management Services, Inc. ("Chugach"), is, and has been at all times relevant to this complaint, a corporation organized under the laws of the State of Alaska, registered to do business in the State of Alabama, and doing business in Madison County, Alabama, and was the employer of Stapler at all times relevant to this Complaint. Chugach has a designated agent for service of process in the State of Alabama: The Corporation Company, 2000 Interstate Park Dr., Suite 204, Montgomery, Alabama 36109.

STATEMENT OF THE FACTS

6. Plaintiff Stapler was born on November 25, 1939.

7. Stapler served as a groundskeeper on Redstone Arsenal in Madison County, Alabama, for 30 or more years, serving with each successive contractor responsible for grounds-keeping on Redstone Arsenal.

8. On or about April 1, 1999, Chugach became the

most recent grounds-keeping contractor at Redstone Arsenal, and retained Stapler as "Lawn Supervisor."

9. At the time of Stapler's employment, Chugach employed over 100 persons on Redstone Arsenal.

10. As of November 9, 2001, no other Chugach employee had been in grounds-keeping on Redstone Arsenal longer than Stapler.

11. Stapler had an excellent work record with every contractor that he had worked for on Redstone Arsenal, including Chugach.

12. Stapler was the oldest supervisory-level employee of Chugach on Redstone Arsenal.

13. Chugach terminated Stapler's employment on November 9, 2001.

14. Stapler was discharged because of his age.

15. Chugach replaced Stapler with an employee substantially younger than Stapler.

16. Chugach informed Stapler that "due to restructuring and reorganization of the management on our contract on the Redstone Arsenal, your position with Chugach Management Services has been eliminated."

17. Prior to terminating Stapler, Chugach did not give any kind of written warning or reprimand to Stapler directed at his job performance or otherwise.

18. November 9, 2001, was the first time that Stapler had been without a job since he was eighteen years old.

19. Due to the willful and unlawful age discrimination practiced by Chugach, Stapler has suffered and continues to suffer loss of income, promotions, job assignments, training, and fringe benefits which would have accrued to him, and further, plaintiff has suffered and continues to suffer

emotional distress, mental anguish, and humiliation.

COUNT I
AGE DISCRIMINATION

20. Plaintiff incorporates as if realleged paragraphs 1 through 19.

21. At the relevant times set out in this complaint, Stapler was (1) between the ages of 40 and 70, (2) the victim of adverse employment actions including termination, (3) replaced by a substantially younger employee, and (4) was qualified to perform the "Lawn Supervisor" position, and other positions, for Chugach.

22. By terminating Stapler because of his age, Chugach has violated 29 U.S.C. § 621 *et seq.*

23. **WHEREFORE**, plaintiff prays that this court:

(a) declare the conduct of Chugach to be in violation of plaintiff's rights;

(b) enjoin Adtran from engaging in such conduct;

(c) award plaintiff back pay, prejudgment interest, and lost fringe benefits;

(d) award plaintiff compensatory damages for emotional distress, mental anguish, and humiliation;

(e) award plaintiff liquidated damages in an amount relevant to the back pay assessment pursuant to 29 U.S.C. § 626(b) incorporating 29 U.S.C. § 216 of the Fair Labor Standards Act;

(f) award plaintiff costs, expert witness fees, and attorney's fees pursuant to 29 U.S.C. § 621 *et seq.*

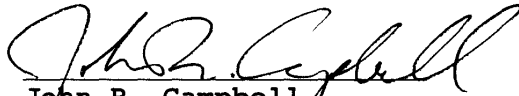
(g) award plaintiff punitive damages, and

(h) grant such other relief as it may deem just

and proper.

Respectfully submitted this 25th day of October,
2002.

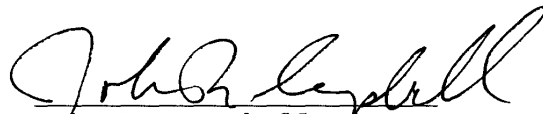
Plaintiff demands trial by jury.


John R. Campbell
Bar I.D. ASB-8555-C64J
Attorney for the Plaintiff

Of Counsel:

KETTELL & CAMPBELL, L.L.P.
108 South Side Square
Huntsville, AL 35801
Phone: (256) 534-4557

Plaintiffs demands trial by jury.


John R. Campbell
Bar I.D. ASB-8555-C64J
Attorney for the Plaintiffs

CHARGE OF DISCRIMINATION

AGENCY

CHARGE NUMBER

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

Agency selection boxes: FEPA (unchecked), EEOC (checked)

and EEOC

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.) MR. GERALD G. STAPLER HOME TELEPHONE (Include Area Code) (256) 859-4113

STREET ADDRESS 186 JONES CIRCLE CITY, STATE AND ZIP CODE BROWNSBORO, AL 35741 DATE OF BIRTH 11/25/39

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME CHUGACH MGMT. SERVICES, INC. NUMBER OF EMPLOYEES, MEMBERS 100+ TELEPHONE (Include Area Code) (256) 881-3911

STREET ADDRESS 5489 MILLS ROAD CITY, STATE AND ZIP CODE REDSTONE ARSENAL, AL 35808 COUNTY MADISON

NAME AUTHORIZED AGENT: THE CORPORATION COMPANY TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS 2000 INTERSTATE PARK DR., STE. 204 CITY, STATE AND ZIP CODE MONTGOMERY, AL 36109 COUNTY MONTGOMERY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) RACE, COLOR, SEX, RELIGION, AGE (checked), RETALIATION, NATIONAL ORIGIN, DISABILITY, OTHER (Specify), DATE DISCRIMINATION TOOK PLACE EARLIEST (ADEA/EPA) 11/06/01 LATEST (ALL) 11/09/01 CONTINUING ACTION (unchecked)

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I am a white male. My date of birth was November 25, 1939. I was hired by Chugach Management Services, Inc. ("Chugach"), on April 1, 1999. Chugach contracted with the United States Army to perform grounds maintenance on Redstone Arsenal in Madison County, Alabama. Chugach was the latest in a long line of contractors that I had worked for as a groundskeeper on Redstone Arsenal. I have always held a job since I was eighteen years old. I am now sixty-one years old. When Chugach took over the contract, I was retained as an employee by Chugach. Chugach placed me in the position of "Lawn Supervisor." I had an excellent work record and attendance record with Chugach, and with each prior contractor, up until the date of my termination. Chugach has over one-hundred employees. With Chugach, I was by far the oldest supervisory-level employee, and one of the oldest employees of any category. I was not warned of termination prior to November 6, 2001. I was even told by management that I was doing a fantastic job. When I was terminated, I was immediately replaced with an employee at least ten years younger than myself. There were no reductions-in-force or lay-offs at Chugach. There was absolutely no legitimate reason for my termination, and no reason was given. I was terminated by Chugach on November 6, 2001, because of my age, in violation of the Age Discrimination in Employment Act. At the time of my termination, I was sixty-one years old.

I want this charge filed with both the EEOC and the State or Local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

Date 4/24/02 x Gerald G. Stapler Charging Party (Signature)

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year) April 24, 2002



Service
MAIL RECEIPT
Mail Only; No Insurance Coverage Provided

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

OFFICIAL USE

Age \$ 0.34
Fee 2.10
Fee (red) 1.50
Fee (red)
Fees \$ 3.94

Postmark
Here

E.O.C. INTAKE UNIT
30 22ND ST., SOUTH, STE. 2000
BIRMINGHAM, AL 35205
January 2001 See Reverse for Instructions

• Sender: Please print your name, address, and ZIP+4 in this box •

JOHN R. CAMPBELL, ESQ.
KETTLE & CAMPBELL, LLP
108 SOUTH SIDE SQUARE
HUNTSVILLE, AL 35801

RE: STAPLER

DISMISSAL AND NOTICE OF RIGHTS

To: Gerald G. Stapler
C/O John R. Campbell
Kettell & Campbell, L.L.P.
108 South Side Square
Huntsville, AL 35801

From: Birmingham District Office
Ridge Park Place, Suite 2000
1130 - 22nd Street, South
Birmingham, AL 35205

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

Charge No.	EEOC Representative	Telephone No.
130 A20 1898	Allen Gosa, Enforcement Supervisor	205-731-0082

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- We cannot investigate your charge because it was not filed within the time limit required by law.
- Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- While reasonable efforts were made to locate you, we were not able to do so.
- You had 30 days to accept a reasonable settlement offer that afford full relief for the harm you alleged.
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state) _____

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** from your receipt of this Notice; otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

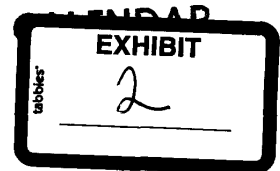
On behalf of the Commission

[Signature]

[Signature]
July 17, 2002
(Date Mailed)

Enclosure(s)

cc:



**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
or the Age Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: **backpay due for violations that occurred more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/96 to 12/1/96, you should file suit **before 7/1/98 -- not 12/1/98** -- in order to recover unpaid wages due for July 1996. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice **and** within the 2- or 3-year EPA backpay recovery period.

ATTORNEY REPRESENTATION -- Title VII and the ADA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do **not** relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Birmingham District Office

Ridge Park Place
1130 22nd Street, South, Suite 2000
Birmingham, AL 35205
(205) 731-0082
TTY (205) 731-0175
FAX (205) 731-0095

Our Reference:
Charge No. 130 A20 1898
Stapler v. Chugach Management

John R. Campbell
Kettell & Campbell, L.L.P.
108 South Side Square
Huntsville, AL 35801

Dear Mr. Campbell:

This will acknowledge receipt of your request for a Notice of Right to Sue in the above referenced charge. The Commission's Procedural Regulations found at 29 CFR 1601.28(a)(2) provide for issuance of a Notice of Right to Sue upon Request if the District Director can certify that the Commission cannot complete its processing within 180 days. In this charge, the Commission cannot make this certification. Accordingly, your request for a notice of right to sue is denied.

Based on my analysis of the facts presented in support of the charge of discrimination filed on April 29, 2002, I have concluded that this Commission will be unable to establish a violation of any of the statutes we enforce. I have reached this conclusion because:

All of the facts presented at the time of your visit have been accepted as true.

The respondent denies all of the allegations of the charge, and specifically denies any discrimination on the basis of age. Respondent further asserts that Mr. Stapler was discharged because of his mistreatment of employees and his unsatisfactory performance.

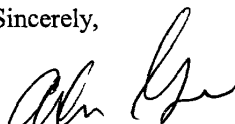
It is undisputed that Mr. Stapler was fifty-eight years old at the time he was hired by the company and that he was sixty-one years old at the time of his discharge. We will further accept as true Mr. Stapler's assertion that he was replaced by an employee at least ten years younger. Therefore, Mr. Stapler was within the ADEA's protected class at the time he was hired and at the time of his discharge, and his replacement was also within the ADEA's protected class.

The result of the Commission's investigation was reviewed with you in an interview with Ms. Linda Byrdsong, Investigator, on June 13, 2002. Instead of presenting a rebuttal to the summary of evidence presented by Ms. Byrdsong, you submitted a request for a Notice of Right to Sue. Under these circumstances, we have conclude that further Commission involvement in this charge is unwarranted.

At this time, therefore, the Commission will exercise its statutory and procedural authority to determine the extent of its investigation. Accordingly, the Commission herewith terminates its investigation and will take no further action.

The Commission's Dismissal and Notice of Rights is enclosed. The Notice provides you with the opportunity to pursue your claim against your employer in Federal district court should you disagree with EEOC's determination of jurisdiction, its interpretation of the facts, or the applicable law. Should you decide to pursue your case in Federal court, you must do so within 90 days from the date you receive the Notice of Right to Sue.

Sincerely,



Allen Gosa
Enforcement Supervisor

Date

7/31/02