

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Nancy W. Chappell,
Plaintiff,

v.

Daimler Trucks North America LLC;
Mercedes-Benz Vans, LLC f/k/a Daimler
Cans Manufacturing, LLC.
Defendants.

CASE NO.: 2:16-cv-02753-PMD-MGB

COMPLAINT
(Jury Trial Requested)

JURISDICTION AND PARTIES

1. This suit is brought and jurisdiction lies pursuant to the US Age Discrimination in Employment Act of 1967 (“ADEA”), as amended, 29 U.S.C. §621-634.
2. All conditions precedent to jurisdiction under the ADEA of 1967, have occurred or been complied with.
 - a. A charge of employment discrimination on the basis of age discrimination, retaliation, and retaliatory discharge was filed by the Plaintiff with Equal Opportunity Employment Commission (“EEOC”).
 - b. Notification of the Right to Sue was received from the Equal Employment Opportunity Commission (“EEOC”) on or about May 9, 2016.
 - c. This Complaint has been filed within the 90 days of receipt of the EEOC’s Notice of the Right to Sue.
3. Plaintiff, Nancy W. Chappell, is a citizen and resident of the State of South Carolina, and resides in Dorchester County, South Carolina.
4. All discriminatory employment practices alleged herein were committed within the State of South Carolina.
5. Defendant Daimler Trucks North America LLC, upon information and belief, upon information and belief, a Delaware corporation operating under the laws of the State of South Carolina and does business in Charleston County.
6. Defendant Mercedes-Benz Vans, LLC f/k/a Daimler Vans Manufacturing, LLC, upon information and belief, upon information and belief, a Delaware corporation operating under the laws of the State of South Carolina and does business in Charleston County.

7. Defendant is a "person" within the meaning of the ADEA of 1967, as amended, 29 U.S.C. §630.
8. Defendant is an industry that affects commerce within the meaning of the Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. §630.
9. Defendant employs twenty (20) or more employees and is an "employer" within the meaning of the ADEA of 1967, as amended, 29 U.S.C. §630.
10. The parties, matters and all things and matters hereinafter alleged are within the jurisdiction of the Court.

STATEMENT OF FACTS

11. The Plaintiff, Nancy W. Chappel, began working for Defendants on November 2011, as the Executive Assistant to the President/CEO at the age of fifty-three (53).
12. At all times Plaintiff was efficient and effective in her work.
13. On or about October 2013, the Plaintiff was in a team meeting with the President/CEO, Marco Wirtz, and other managers. During this meeting, Mr. Wirtz told the other managers to send him the names of their promising talent. After the meeting was over, the Plaintiff inquired as to whether she was considered promising talent – to which Mr. Wirtz responded “Nancy, you’re too old.”
14. On or about February 27, 2014, the Plaintiff received her annual performance review in which she scored highly. The Plaintiff inquired at the possibility of moving up in the company and was told by Mr. Wirtz that “the [Defendants] don’t invest in people your age.”
15. In April 2014, the Plaintiff was again passed over for a “LEAD” position.
16. Throughout 2014 and 2015, the Plaintiff repeatedly was passed over for bonuses and promotions, which were given to younger employees who had less experience, less training, and less rank in the Company.
17. When the Plaintiff inquired as to the reason she was not receiving the bonus and promotions, she was told it was because she was not ranked high enough within the company. However, the younger employees who were receiving the bonuses and promotions were not ranked at the required level.
18. Again, the Plaintiff complained to Mr. Wirtz as well as the Defendants in-house-counsel regarding the discrimination.

19. On or about October 2015, Mr. Wirtz told the Plaintiff that she would begin working with a co-executive assistant, who was under forty (40) years of age. The co-executive assistant was given all of the substantial work to do, leaving the Plaintiff with no work.
20. Due to the ongoing discrimination, the Plaintiff was constructively discharged on or about February 10, 2016
21. It was the duty of Defendant, by and through their agents, servants and/or employees, to prevent such acts of discrimination and behavior from occurring and to stop it once the behavior had been reported by the Plaintiff.
22. Despite Plaintiff reporting the discriminating behavior, Defendant did not take appropriate action to resolve the problems.

FOR A FIRST CAUSE OF ACTION
VIOLATION OF AGE DISCRIMINATION IN EMPLOYMENT ACT

23. The Plaintiff reiterates and realleges each and every allegation as if fully set forth herein.
24. Plaintiff is a member of a protected group on the basis of her age. Plaintiff was an employee for a position that she was qualified for and was an individual over forty (40) years old. Plaintiff was retaliated against and constructively discharged from her position due to her age in violation of the ADEA of 1967, as amended, 29 U.S.C. §630.
25. Defendant was wanton, and intentional in the discrimination of the Plaintiff in the following particulars, to wit:
 - a. In failing to promote or continue to employ Plaintiff due to her age;
 - b. In demoting the Plaintiff due to her age;
 - c. In retaliating against Plaintiff and showing disparate treatment against Plaintiff for making reports of age discrimination and inappropriate behaviors;
 - d. In discharging Plaintiff due to her age and in retaliation for making reports of the discriminations and inappropriate behaviors.
26. Defendant violated the ADEA of 1967, as amended, 29 U.S.C. §630 by allowing the discrimination to exist in the workplace.
27. Employees outside of the Plaintiff's protected class were treated more favorably by the Defendant.
28. Plaintiff's age was a determining factor in the retaliation, disparate treatment and termination of the Plaintiff. But for the Plaintiff's age, and reporting of discrimination she would not have been constructively discharged.

29. As a direct and proximate result of the acts and practices of Defendant in the discrimination, retaliation, disparate treatment and wrongful discharge of Plaintiff from employment, the Plaintiff has suffered and continues to suffer from loss of income, back pay, front pay, lost benefits, attorneys fees and costs, and other past and future losses.

REQUEST FOR RELIEF

30. Plaintiff reiterates and realleges each and every allegation as if fully set forth herein.

31. Due to the acts of the Defendant, Plaintiff is owed back pay, other work benefits, and compensatory damages, attorney fees, and costs.

32. That by reason of such wrongful acts of the Defendant, Plaintiff has been damaged in such an amount to be determined by the trier of fact.

WHEREFORE, Plaintiff prays for the following relief:

1. Judgment in favor of the Plaintiff and against Defendant for all causes of actions in an amount which is fair, just and reasonable, and for compensatory damages;
2. Prejudgment interest, costs and attorneys fees as may be allowed by law;
3. Judgment in favor of the Plaintiff and against Defendant with back pay and associated benefits she would have earned with all lost or diminished benefits such date to be determined by the trier of fact;
4. Judgment in favor of the Plaintiff and against Defendant for front pay and any other work benefits she lost in an amount to be determined by the trier of fact; and
5. Judgment against Defendant, in such an amount of actual damages, punitive damages, attorney fees, costs of this action and any other relief this Honorable Court deems allowable under law, and just and proper.

WIGGER LAW FIRM

s/Brice E. Ricker

Brice E. Ricker (Fed. I.D. #12049)

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August 5, 2016