

Tomorrow fundraising campaign “to ensure the ability to retain and recruit the best teachers.” However, in effectuating this new campaign, Westminster put its older teachers out-to-pasture, while making room for younger, less-experienced “thoroughbreds.” In so doing, Westminster terminated Ms. Adams (51 years old), Ms. Hudgins (49 years old), and Ms. Marshall (69 years old) in violation of the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-34 (the “ADEA”), the Civil Rights Act of 1866, 42 U.S.C. § 1981 (“1981”), and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, as amended (“Title VII”).

JURISDICTION AND VENUE

2.

Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 621 *et seq.*

3.

This Court is a proper venue for Plaintiffs’ claims under 28 U.S.C. § 1391(b), because Defendant resides in the Northern District of Georgia and because the unlawful conduct giving rise to the claims occurred in this District.

PARTIES

4.

Ms. Adams, Ms. Hudgins, and Ms. Marshall are citizens of the United States and resided in the Northern District of Georgia during the discriminatory activity.

5.

Ms. Adams, Ms. Hudgins, and Ms. Marshall were all over the age of 40 at the time of the adverse employment actions.

6.

Ms. Adams, Ms. Hudgins, and Ms. Marshall are all white females.

7.

At all times pertinent to this lawsuit, Defendant has been engaged in an industry affecting commerce within the meaning of Section 11(h) of the ADEA, 29 U.S.C. § 630(h).

8.

Defendant is an “employer” within the meaning of Section 11(b) of the ADEA, 29 U.S.C. § 630(b).

9.

At all times pertinent to this lawsuit, Defendant has known that its employment decisions were subject to the ADEA.

10.

At all times relevant to this lawsuit Defendant has been engaged in an industry affecting commerce within the meaning of Title VII, and has employed more than 15 persons for each working day in each of 20 calendar weeks in the current or preceding calendar year.

11.

Defendant, The Westminster Schools, Inc., is a Corporation doing business within the Northern District of Georgia and is subject to this Court's jurisdiction.

12.

Defendant, The Westminster Schools, Inc., may be served with process via personal service upon its registered agent, William Clarkson IV (or current named registered agent), at 1424 W Paces Ferry Rd, Atlanta, GA 30327.

ADMINISTRATIVE PROCEEDINGS

13.

Plaintiffs timely filed charges of discrimination with the United States Equal Employment Opportunity Commission ("EEOC"), and the charges encompass all of the claims asserted in this Complaint.

14.

Plaintiffs received their Notice of Right to Sue 90 days prior to filing this

lawsuit, and Plaintiffs have fulfilled all administrative prerequisites to the prosecution of their claims in this Court.

STATEMENT OF FACTS

Helen Adams

15.

Ms. Adams began her career as a substitute teacher in 1992; she began her employment with Westminster as a substitute teacher in 2002.

16.

Ms. Adams is 51 years old.

17.

During her two years as a substitute, Ms. Adams taught most grades throughout the elementary school.

18.

From 2004 until 2010, she taught second grade as a Lead teacher.

19.

In 2011, after attending Walden University to obtain her Education Specialist Degree, Ms. Adams entered into a five-year contract to continue working for Westminster.

20.

She also began working as a Resource Teacher for Pre-First and First Grade

students in 2010.

21.

In April 2011, Westminster announced the completion of the Teaching for Tomorrow campaign.

22.

Westminster created the Teaching for Tomorrow campaign to “retain and attract the best teachers.”

23.

On December 9, 2011, Westminster informed Ms. Adams that it planned to eliminate The Learning Team Department entirely.

24.

Westminster told Ms. Adams that she could reapply to the position of Academic Coach or Lead Classroom Teacher.

25.

During the hiring period in 2012, Principal Kristi Kerins remarked to the younger teachers that they “are the thoroughbreds who will run the school in the future.”

26.

Also during the 2011-2012 school year, Kerins stated that Westminster wanted to get rid of the old faculty and get rid of the baby-boomers.

27.

During 2011-2012 school year, Ms. Adams applied and was qualified for the position of Academic Coach.

28.

Westminster denied Ms. Adams the position of Academic Coach and instead, hired two younger and less qualified candidates.

29.

After being denied the position of Academic Coach, Ms. Adams also applied for open classroom teacher positions.

30.

Westminster did not allow Ms. Adams to interview for the classroom teaching positions, effectively denying her the position.

31.

Meanwhile, Westminster permitted other candidates to interview, give demonstration lessons, and meet with parents and teachers.

32.

Ms. Adams did not receive the same opportunities during the hiring process as other, younger candidates.

33.

Ms. Adams also applied for the Associate Admissions Director position.

34.

In her interview for the Associate Admissions Director position, Principal Kerins stated that “the perception is that there are too many white faces seen when going through the Elementary Admissions process.”

35.

Principal Kerins also stated that Westminster would not be hiring anyone that was of her own generation, referring to the older job applicants.

36.

Additionally, Westminster promoted and/or assigned other younger faculty and staff members to positions not made available to older, white faculty.

37.

Specifically, Westminster promoted Whit McKnight, a substantially younger, less-experienced, African-American male employee, from the position of

third-grade assistant teacher to Director of The Learning Team in May 2011 and then to Associate Principal in January 2012.

38.

Westminster did not allow other candidates, including Plaintiffs, to apply for open positions, including the Director of the Learning Team, Associate Principal, GOAL Co-Directors, Global Awareness, Spirituality, Service Learning, Health and Wellness, Sustainability, PLC, or Project Based Learning positions.

39.

After denying Ms. Adams the Academic Coach and Associate Admissions Director positions, another employee, who was around 65 years old, applied for the Associate Admissions Director position.

40.

The teacher's application prompted Kristi Kerins to remark that no one of her generation would be hired for the Associate Admissions job.

41.

In the beginning of May 2012, Ms. Adams complained to Kristi Kerins, Whit McKnight, Thad Persons, and Marjorie Mitchell about feeling discriminated against based on her age and race.

42.

To no avail, Westminster failed to correct their discriminatory behavior, and instead, terminated Ms. Adams's employment later that same month; May 2012.

Robbi Hudgins

43.

Ms. Hudgins incorporates by reference those preceding paragraphs generally applicable to the discriminatory, adverse employment actions she faced while employed by Westminster.

44.

Ms. Hudgins is 49 years old.

45.

Ms. Hudgins began teaching in 1987, and she began teaching at Westminster in 1991.

46.

Over the course of her employment with Westminster, Ms. Hudgins taught every grade level within the Elementary School.

47.

In 2008, she took a position as a Math Resource Teacher.

48.

In 2010-2011, after receiving a Sabbatical, Ms. Hudgins committed to a two-year contract to continue working for Westminster

49.

On or around late October 2011, Westminster announced that the school would be cutting back and retirement packages would be presented to teachers in January 2012.

50.

However, even though cut backs were allegedly being made, Westminster spent money buying new furniture for classrooms, redecorating the faculty lounge, adding white board paint to a wall in the faculty lounge, landscaping, and revamping the lunchroom.

51.

On December 9, 2011, Westminster informed Ms. Hudgins that all math and reading resource teacher positions would be eliminated due to restructuring and budget cuts.

52.

On February 8, 2012, Ms. Hudgins learned that Whit McKnight was being appointed to Elementary School Vice Principal and other teachers were being

placed into administrative and other new positions.

53.

Ms. Hudgins learned that these appointees never applied or interviewed for the positions.

54.

Westminster then announced three openings for which Resource Teachers could apply.

55.

Ms. Hudgins applied, but the positions were filled by other internal candidates, who are substantially younger than Ms. Hudgins.

56.

After filling the Resource Teacher Positions, Westminster announced several classroom teacher openings, which were also open to the public.

57.

Westminster posted the positions online, and Ms. Hudgins applied for the openings.

58.

The available positions included one pre-first, one first grade, two third grade, and two fourth grade classroom teacher positions.

59.

Westminster denied Ms. Hudgins these classroom positions as well.

60.

In fact, during the interview process, Ms. Hudgins overheard comments from decisions makers like, “the cuts will be refreshing” and “I just interviewed and Skyped with the most adorable candidate.”

61.

By May 2012, Westminster filled the overwhelming majority of the classroom teacher positions with substantially younger, less-experienced teachers.

62.

That same month, Westminster terminated Ms. Hudgins’s employment.

Jill Marshall

63.

Ms. Marshall incorporates by reference those preceding paragraphs generally applicable to the discriminatory adverse employment actions she experienced at Westminster.

64.

Ms. Marshall is 69 years of age.

65.

Ms. Marshall began teaching at Westminster in 1998.

66.

From 1998 to 2006 Ms. Marshall taught first grade as a Lead Teacher.

67.

In 2006, Westminster selected Ms. Marshall to attend a year-long training in the Orton-Gillingham Phonics Curriculum program.

68.

After attending the program, Ms. Marshall taught as Resource Reading Teacher to second and third grade students from 2006-2012.

69.

On December 12, 2011, Ms. Marshall learned that Westminster planned to eliminate her position as a Resource Reading Teacher.

70.

After this meeting, but before the end of the 2011-2012 school year, principal Kristi Kerins remarked to multiple Westminster parents that the elementary school had a lot of older teachers who would not change and needed to be moved along so the school could update its teaching.

71.

In January 2012, Ms. Marshall submitted a resume and interviewed for one of the three available Academic Coach positions.

72.

During the 2011-2012 school year, Ms. Marshall also began implementing Westminster's news teaching model.

73.

As a result of Ms. Marshall's initiative, Principal Kerins commended Ms. Marshall on a fine job on a "21st Century" project.

74.

However, in late January 2012, Ms. Marshall learned that Westminster hired 2 candidates, each less than 35 years of age, and one teacher less than 50 years of age for the Academic Coach positions.

75.

Westminster then posted additional Lead Teacher positions online.

76.

To enhance her qualifications for the Lead Teacher positions, Ms. Marshall attended a professional development course.

77.

In March 2012, Ms. Marshall applied for and interviewed for approximately five Lead Teacher positions.

78.

In her interview, Ms. Marshall witnessed Principal Kerins state, “Why are all my best teachers over 65?”

79.

In April 2012, Ms. Marshall learned that Westminster filled all five Lead Teacher positions with candidates less than 35 years of age.

80.

Westminster did not provide the same opportunities during the interview process to Ms. Marshall that it afforded to younger candidates, who were allowed to meet with parents and conduct observed classroom sessions.

81.

Of the five candidates selected, one did not interview for the position.

82.

Finally, in May 2012, Westminster terminated Ms. Marshall’s employment.

CLAIMS FOR RELIEF

COUNT I: DISCRIMINATION IN VIOLATION OF THE ADEA
(ON BEHALF OF ALL PLAINTIFFS)

83.

Plaintiffs incorporate by reference all of the preceding paragraphs.

84.

At the time of their terminations, Plaintiffs were over 40 years of age.

85.

Defendants replaced Plaintiffs with substantially younger, less-experienced teachers.

86.

Defendant discriminated against Plaintiffs on account of their age, in violation of the ADEA, 29 U.S.C. §§ 621 *et seq.*

87.

Defendant's discriminatory practices of terminating and refusing to retain in open positions Plaintiffs have deprived them of equal employment opportunities, wages, retirement, and other benefits, and equal treatment in the terms and conditions of their employment, thus damaging Plaintiffs in an amount to be proven at trial.

COUNT II: LIQUIDATED DAMAGES – ADEA
(ON BEHALF OF ALL PLAINTIFFS)

88.

Plaintiffs incorporate by reference all of the preceding paragraphs.

89.

The Defendant's discriminatory and retaliatory acts were willful within the meaning of the ADEA, and Plaintiffs are entitled to liquidated damages under 29 U.S.C. § 626(b).

COUNT III: RETALIATION IN VIOLATION OF THE ADEA
(ON BEHALF OF HELEN ADAMS)

90.

Plaintiff Adams incorporates by reference all of the preceding paragraphs.

91.

Defendant's actions in terminating Plaintiff Adams employment closely following her complaints of discrimination were committed with reckless disregard for her right to be free from discriminatory treatment on account of her opposition to discriminatory practices and, in violation of the ADEA, 29 U.S.C. §§ 621 *et seq.*

92.

Defendant's discriminatory practices have deprived Plaintiff Adams of equal employment opportunities, wages, retirement, and other benefits, and equal

treatment in the terms and conditions of her employment, thus damaging Plaintiff in an amount to be proven at trial.

COUNT IV: DISCRIMINATION IN VIOLATION OF § 1981
(ON BEHALF OF ALL PLAINTIFFS)

93.

Plaintiffs incorporate by reference all of the preceding paragraphs.

94.

Defendant's actions in failing to retain Plaintiffs in open teaching positions for which they applied and/or place them in positions that were not posted because of their race were committed intentionally and in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981.

95.

The actions taken against Plaintiffs have caused them to suffer both monetary and non-monetary damages.

96.

Plaintiffs are entitled to equitable and monetary relief from Defendant for these violations of the Civil Rights Act of 1866, 42 U.S.C. § 1981.

COUNT V: RETALIATION IN VIOLATION OF § 1981
(ON BEHALF OF HELEN ADAMS)

97.

Plaintiff Adams incorporates by reference all of the preceding paragraphs.

98.

Defendant's actions in terminating Plaintiff Adams's employment following her complaints of discrimination were committed with reckless disregard for Ms. Adams's right to be free from discriminatory treatment on account of her opposition to discriminatory practices and in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981.

99.

The actions taken against Plaintiff Adams have caused her to suffer both monetary and non-monetary damages.

100.

Accordingly, Plaintiff Adams is entitled to the equitable and monetary relief set forth in the following prayer for relief for Defendant's violation of their rights under the Civil Rights Act of 1866, 42 U.S.C. § 1981.

COUNT VI: RACE DISCRIMINATION IN VIOLATION OF TITLE VII
(On behalf of Helen Adams in her individual capacity)

101.

Plaintiff Adams incorporates by reference all of the preceding paragraphs.

102.

Defendant's actions in failing to place Adams in open positions or positions that were not posted Plaintiff Adams were committed with reckless disregard for her right to be free from discriminatory treatment on account of her race in violation of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*

103.

The effect of Defendant's above-mentioned acts has been to deprive Plaintiff Adams of equal employment opportunities and benefits due to her as an individual because of her race.

104.

As a result of these actions, Plaintiff has suffered damages both monetary and non-monetary.

105.

As such, Plaintiff is entitled to equitable as well as monetary relief from Defendant for violation of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*

COUNT VII: RETALIATION IN VIOLATION OF TITLE VII
(On behalf of Helen Adams in her individual capacity)

106.

Plaintiff Adams incorporates by reference all of the preceding paragraphs.

107.

Defendant's actions in terminating Plaintiff Adams's employment following her complaints of discrimination were committed with reckless disregard for her right to be free from discriminatory treatment on account of her opposition to discriminatory practices and in violation of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*

108.

The actions taken against Plaintiff Adams have caused her to suffer both monetary and non-monetary damages.

109.

Accordingly, Plaintiff Adams is entitled to the equitable and monetary relief set forth in the following prayer for relief for Defendants' violation of her rights under the Civil Rights Act of 1866, 42 U.S.C. § 1981.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand that:

(a) The Court adjudicate and declare that the acts of Defendant complained of in this Complaint violated Plaintiffs rights under the ADEA and 42 U.S.C. § 1981, and Plaintiff Adams's rights under Title VII;

(b) The Court permanently enjoin Defendant, its officers, agents, successors, employees, attorneys, assigns and other representatives, and all those acting in concert with them or at their direction, from engaging in any employment policy or practice that discriminates against any employee on the basis of age or race or from illegally retaliating against any employee for protected conduct;

(c) Plaintiffs recover appropriate back pay, including reimbursement for lost salary, bonuses, incentive compensation, pension, social security, and other benefits in amounts to be shown at trial;

(d) Plaintiffs recover prejudgment interest on any award of back pay made by the jury as required by law;

(e) Plaintiffs recover liquidated damages equal to their back pay and lost benefits, as a result of Defendant's willful violations of the ADEA;

(f) The Court award Plaintiffs front pay through projected date of retirement or, alternatively, order the Defendant to reinstate Plaintiffs to their last-held positions or to an equivalent position;

(g) The Court award Plaintiffs compensatory damages in an amount to be determined by a jury;

(h) The Court award Plaintiffs punitive damages in an amount reasonable and commensurate with the harm done and calculated to be sufficient to deter such conduct in the future.

(i) The Court award Plaintiffs their attorney's fees, costs and disbursements; and

(j) The Court grant such additional relief as may be just.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues.

Respectfully submitted,

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