

U.S. Equal Employment Opportunity Commission
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**UNITED STATES DISTRICT COURT
 DISTRICT OF NEW JERSEY**

-----X		
U.S. EQUAL EMPLOYMENT	:	
OPPORTUNITY COMMISSION,	:	
Plaintiff,	:	Civil Action No.
v.	:	
DIVERSE LYNX, LLC	:	COMPLAINT
Defendant.	:	AND JURY TRIAL DEMAND
-----X		

NATURE OF THE ACTION

This is an action under the Age Discrimination in Employment Act (ADEA) to correct an unlawful employment action on the basis of age and to provide appropriate relief to Kadambi Vijaisimh. As alleged with greater particularity below, Defendant Diverse Lynx, LLC (“Defendant”), an employment agency, failed or refused to refer Mr. Vijaisimh for employment on the basis of age.

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 District of New Jersey.

PARTIES

3. Plaintiff, the United States 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 has been a New Jersey corporation doing business in the State of New Jersey, with its headquarters and primary location in Princeton, and has been an employment agency within the meaning of Section 11(c) of the ADEA, 29 U.S.C. § 630(c).

CONCILIATION

5. Prior to institution of this lawsuit, the Commission 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

6. Since at least in or around May 2014, Defendant has engaged in unlawful employment practices, in violation of Section 4 of the ADEA, 29 U.S.C. § 623(b):

- a. In or around May of 2014, Mr. Vijaisimh posted his resume on the website maintained by Defendant seeking job applicants.
- b. At or around that time Defendant sought to identify and refer a person for an information technology project management job (“Job Opportunity”) at another company.
- c. Soon after Mr. Vijaisimh posted his resume on Defendant’s website, Defendant contacted him about the Job Opportunity.
- d. Mr. Vijaisimh had substantial information technology project management experience and was qualified for the Job Opportunity.
- e. Defendant and Mr. Vijaisimh discussed the details of the Job Opportunity, including salary and other terms of employment.
- f. The day after the last of those discussions, some of which occurred by email, Defendant sent an email to Mr. Vijaisimh which stated:

Thanks for your reply. I check the details of [sic] you. And you [sic] born in 1945. So I discussed with the client side. Age will matter. So that’s why I can’t [sic] be able to submit your profile to client side.
- g. After sending Mr. Vijaisimh the above-referenced email, Defendant failed and/or refused to refer Mr. Vijaisimh for the Job Opportunity because of his age (40 or older).

7. The effect of the practices complained of above has been to deprive Mr. Vijaisimh of equal employment opportunities and otherwise adversely affect his status as an employee or an applicant for employment.

8. The unlawful practices complained of above were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

PRAYER FOR RELIEF

Therefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in practices which discriminate on the basis of age.

B. Order Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, to institute and carry out policies, practices, and programs which provide equal opportunities for employees and job applicants 40 years of age and older, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, to pay appropriate monetary relief, including back wages in an amount to be determined at trial, an equal sum as liquidated damages, and prejudgment interest to Mr. Vijaisimh.

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

E. 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.

Dated: May 8, 2017
Newark, New Jersey

Respectfully submitted,

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Deputy General Counsel

GWENDOLYN Y. REAMS
Associate General Counsel

U.S. Equal Employment Opportunity Commission
131 M Street, N.E.
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Acting Regional Attorney

/s/ Sebastian Riccardi
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

U.S. Equal Employment Opportunity Commission

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, Email and Telephone Number)

See attached

DEFENDANTS

Diverse, Lynx, LLC

County of Residence of First Listed Defendant Mercer (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Labor, and Bankruptcy.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 U.S.C. Section 626(b)

Brief description of cause: Failure to Hire Because of Age

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 05/08/2017 SIGNATURE OF ATTORNEY OF RECORD s/ Sebastian Riccardi

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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