

STATE OF MINNESOTA
COUNTY OF RAMSEY

EMPLOYMENT
DISTRICT COURT
SECOND JUDICIAL DISTRICT

Clifford L. Whitaker, et al., on behalf of
themselves and all others similarly
situated,

Plaintiffs,

vs.

3M Company,

Defendant.

Court File No. 62-C4-04-012239

[G. Johnson]

**FINDINGS AND ORDER
CERTIFYING CLASS AND
APPOINTING CLASS COUNSEL**

[Class Action]

FINDINGS

THE COURT HEREBY FINDS AS FOLLOWS:

1. The proposed class is defined as:

All persons who were 46 or older when employed by 3M in Minnesota in a salaried exempt position below PS grade 180 at any time on or after May 10, 2003, and who did not sign a document on or about their last day of employment purporting to release claims arising out of their employment with 3M;

2. The proposed class has so many members that joinder of all members in a single action would be impracticable;

3. The claims of the proposed class raise issues common to most or all of its members;

4. The claims of plaintiffs Clifford L. Whitaker, Michael V. Mucci, Robert W. Coats, Mark D. Swanson, and Thomas R. Bulen are typical of the claims of the class;

5. The plaintiffs will fairly and adequately protect the interests of the class;

6. 3M's actions that are the subject of the complaint apply generally to class members such that, if those actions constitute age discrimination, injunctive relief would be appropriate for the class as a whole;

7. Alternatively,

(a) Questions of law and fact common to members of the proposed class predominate over any questions affecting only individual members; and

(b) A class action is superior to other available methods for the fair and efficient adjudication of the controversy; and

8. Sprenger & Lang, PLLC and AARP Foundation Litigation will fairly and adequately represent the interests of members of the class.

ORDER

IT IS THEREFORE ORDERED:

1. The class identified in factual paragraph 1 above is hereby certified under Rule 23.02(b), with notice and the "opt-out" procedures to be provided pursuant to Rules 23.03(b)(1) and 23.04(b) prior to the award of any monetary relief. Alternatively, the class is certified as to all issues related to injunctive relief under Rule 23.02(b) and as to all other issues under Rule 23.02(c);

2. The class shall prosecute the following ten claims:

(a) 3M engaged in a pattern or practice of age discrimination adverse to class members with respect to performance appraisal ratings and designations;

(b) 3M engaged in a pattern or practice of age discrimination adverse to class members with respect to leadership development opportunities;

(c) 3M engaged in a pattern or practice of age discrimination adverse to class members with respect to promotion decisions;

(d) 3M engaged in a pattern or practice of age discrimination adverse to class members with respect to compensation decisions;

(e) 3M engaged in a pattern or practice of age discrimination adverse to class members with respect to job eliminations;

(f) The flaws in 3M's potential rating system, including its vague criteria and the lack of a reasonable, specified time horizon, disparately impacted class members;

(g) The restriction of leadership development training to persons rated high potential, and the closed selection process, disparately impacted class members;

(h) The restriction of PMAP to employees with less than five years experience disparately impacted class members;

(i) The lack of competition for re-entry promotions disparately impacted class members; and

(j) 3M's requirement or preference for BB/MBB graduates to fill certain vacancies disparately impacted class members;

3. The class claims shall raise the following issues to be decided on a class-wide basis:

(a) What are the elements of proof for a pattern or practice claim under Minnesota law?

(b) Whether 3M has engaged in a pattern and practice of age discrimination adverse to class members as to each of the claims identified in paragraphs 2(a)-(e) above?

(c) Whether 3M is liable under a disparate impact theory as to each of the claims identified in paragraphs 2(f)-(j) above?

(d) Whether 3M has engaged in continuing violations against class members, either under a pattern or practice or a disparate impact theory, as to its practices and decisions affecting performance appraisals, leadership development opportunities, promotions, and compensation?

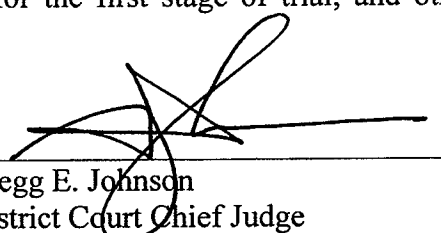
(e) Whether 3M's practices as to leadership development opportunities entitle the class to a class-wide lost earnings award and, if so, whether the class should be awarded up to treble that amount as compensatory damages?

(f) Whether 3M's practices entitle the class to punitive damages, and if so, the amount of those damages?

4. The Court anticipates that all defenses will be litigated on a class-wide basis.

5. Sprenger & Lang, PLLC and AARP Foundation Litigation are hereby appointed as Class Counsel.

6. Within 30 calendar days of entry of this Order, the parties shall confer and report to the Court concerning their joint proposals, or to the extent that they do not agree, their separate proposals, concerning the amount of time needed for remaining discovery, the timing of notice to class members, a trial plan, a date for the first stage of trial, and other appropriate scheduling matters.



Gregg E. Johnson
District Court Chief Judge

4/11/08