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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

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**LAUREL A. GIBBS**

**Plaintiff,**

**COMPLAINT and  
JURY DEMAND**

**-vs-**

**Case No.**

**ST. STEPHEN'S SCHOOL**

**Defendant.**

---

Plaintiff, LAUREL A. GIBBS, by and through her attorneys, MORIARTY & GROCOTT, brings this action for redress for violation of rights guaranteed under the Age Discrimination in Employment Act of 1967 and the New York State Human Rights Law.

**I. JURISDICTION**

1. This an action authorized by and instituted under the Age Discrimination in Employment Act of 1967, as amended, (hereinafter "ADEA") 29 U.S.C. § 621 *et seq* and the New York State Human Rights Law (hereinafter "NYSHRL"), as codified in N.Y. Exec. Law § 296 *et seq*.
2. The First cause of action of the Complaint is based on 29 U.S.C. § 623 (a). As to such cause, the jurisdiction of this Court is invoked by Plaintiff pursuant to 29 U.S.C. § 626 and 28 U.S.C. §§ 1331, 1332, and 1343.
3. The Second cause of action of the Complaint is based on New York Exec. Law § 296 (1)(a). As to such cause, the supplemental jurisdiction of this Court is invoked by Plaintiffs pursuant to 28 U.S.C. § 1367.
4. This Court has jurisdiction over the Defendant because the unlawful

discriminatory acts alleged in this Complaint were committed in Erie County, New York, which lies within the Western District of New York.

**II. VENUE**

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because the acts complained of by Plaintiff as described herein were committed or occurred within Erie County, New York, which lies within the Western District of New York.

**III. NATURE OF PROCEEDING**

7. This is a proceeding for (a) back pay; (b) front pay; (c) liquidated damages; (d) declaratory judgment; (e) punitive damages and compensatory damages as they may be provided pursuant federal and state law; (f) counsel fees; and (g) such other and further relief as may be required to secure the Plaintiff the right hereafter to be free of employment discrimination based on age.

**IV. PARTIES**

8. At all times material herein, the Defendant, ST. STEPHEN'S SCHOOL (hereinafter "ST. STEPHEN'S"), has engaged in and employed its employees in commerce.
9. Defendant is doing business in the State of New York, with a principal office for the transaction of business located at 2080 Baseline Road, Grand Island, New York 14072.
10. Defendant is, and at all times relevant herein was, a private employer with at least twenty (20) or more employees.
11. Defendant is, and at all times relevant herein has been, an employer within the meaning of the ADEA 29 U.S.C. § 630 (b).
12. The Plaintiff is a citizen of the United States, who at all times relevant herein

resided in the State of New York, County of Erie, at 1921 Marjorie Road, Grand Island New York, 14072.

13. At all times relevant herein, the Plaintiff was at least forty (40) years of age, and not more than seventy (70) years of age.

14. At all times relevant herein, the Plaintiff was an employee within the meaning of the ADEA 29 U.S.C. § 630 (f) and was subjected to such adverse employment actions as are described more fully described below.

**V. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

14. Plaintiff has exhausted her administrative remedies and satisfied all procedural and administrative requirements set forth in 42 U.S.C. 2000e-5, to wit:

A. Plaintiff filed a timely charge with the United States Equal Employment Opportunity Commission (“EEOC”), which was concurrently filed with the New York State Division of Human Rights (“NYSDHR”), a copy of which is annexed hereto as Exhibit “A”.

B. The above charges were filed more than sixty (60) days prior to the filing of this action.

15. On, March 5, 2007, Plaintiff received a Dismissal and Notice of Suit Rights from the EEOC, a copy of which is annexed hereto as Exhibit “B.”

**VI. STATEMENT OF CLAIMS**

16. Plaintiff began employment with Defendant on or about September 3, 1986 as a school teacher.

17. Plaintiff was born March 1, 1947, was age fifty-nine (59) at the time she was discharged and thus was within the group protected by the ADEA at the time of

Defendant's discriminatory action.

18. Plaintiff worked for the Defendant for twenty (20) years, teaching various subject areas, including Language Arts, Reading, Social Studies and Mathematics predominately to 6th, 7th and 8th grade middle school students.
19. Additionally, from 1989 through 1991, Plaintiff worked for Defendant as a Teacher and as an Assistant Principal.
20. For years 1986 through to 2000 Plaintiff continually received above-average yearly performance appraisals.
21. Throughout Plaintiff's employment, Plaintiff consistently received praise for her teaching and Defendant repeatedly assigned her additional duties of responsibility.
22. More specifically, Plaintiff was selected by Defendant to serve as an Assistant Principal, to grade NYS Regents Examinations, to participate in the National Geographic Bee and to plan and prepare the 2005-2006 Christmas party.
23. Additionally, Plaintiff beginning with the 1986-1987 school year through to the 2005-2006 school year consistently and without issue had her contract renewed.
24. In or around Fall 2001, Defendant, MRS. DONNA ENDE was selected to serve as Defendant's first lay principal.
25. Prior to MRS. DONNA ENDE being appointed as Defendant's Principal, all of Defendant's Principals were Felician Sister's.
26. Once MRS. ENDE became principal, all teachers, including Plaintiff, no longer received yearly performance appraisals, in contravention to Defendant's handbook for lay employees.
27. Although each year Plaintiff requested and inquired about receiving a

performance appraisal, she was never given one.

28. Nor was Plaintiff ever given any indication to believe that her performance was in any way unsatisfactory.
29. Moreover, at all times relevant, Plaintiff never received any written disciplinary notices indicating unsatisfactory, substandard performance or inappropriate conduct.
30. Throughout Plaintiff's employment, Defendant made general comments regarding complaints made against all of Defendant's staff members.
31. However, on only one occasion was Plaintiff ever made aware of any specific complaint made against her.
32. Additionally, Plaintiff is aware that several of Defendant's teachers, younger than her, were counseled regarding complaints made against them, but those teachers suffered no disciplinary consequence and continued to have their contracts renewed.
33. Plaintiff further submits that throughout her last five years of employment with Defendant, Defendant made repeated comments made in reference to the school's need to hire new blood to better serve the changing dynamic of the student population.
34. Such statements were expressed by the Defendant's Administration and referred to a stereotypical belief that older teachers were not able to adjust to or meet the needs of today's generation.
35. On June 30, 2006, Defendant notified Plaintiff that her contract was not going to be renewed for the 2006-2007 school year and that her employment was terminated.
36. Subsequent to Plaintiff's termination, Defendant hired several new teachers much younger than Plaintiff.
37. Moreover, Plaintiff was replaced by a twenty-two (22) year old male, who

recently graduated college and had no previous teaching experience.

**VII. AS AND FOR A FIRST CAUSE OF ACTION ALLEGING DISCRIMINATION IN VIOLATION OF THE ADEA**

38. Plaintiff LAUREL A. GIBBS repeats and realleges each and every allegation contained in paragraphs “1” through “37” as if set forth fully herein.

39. On or about June 30, 2006, the Defendant Terminated Plaintiff’s employment and otherwise discriminated against Plaintiff because of her age.

40. Defendant therefore discriminated against Plaintiff with respect to the terms, conditions and privileges of employment on the basis of age in violation of the ADEA, 29 U.S.C. § 621 *et seq.*

41. Plaintiff has been damaged as a direct and proximate result of Defendant's actions. She has suffered injuries including but not limited to lost wages and benefits, mental anguish and suffering, embarrassment and humiliation.

42. The discriminatory actions of the Defendant against Plaintiff were both willful and intentional, and demonstrate a complete disregard for Plaintiff’s civil rights. As such, Plaintiff is entitled to punitive damages

**VIII. AS AND FOR A SECOND CAUSE OF ACTION ALLEGING DISCRIMINATION IN VIOLATION OF NEW YORK HUMAN RIGHTS LAW**

43. Plaintiff LAUREL A. GIBBS repeats and realleges each and every allegation contained in paragraphs “1” through “42” as if set forth fully herein.

44. On or about June 30, 2006, the Defendant terminated Plaintiff’s employment and otherwise discriminated against Plaintiff because of her age.

45. Defendant therefore discriminated against Plaintiff with respect to the terms, conditions and privileges of employment on the basis of age in violation of the New

York Human Rights Law, as codified in N.Y. Exec. Law § 296 *et seq.*

46. Plaintiff has been damaged as a direct and proximate result of Defendant's actions. She has suffered injuries including but not limited to lost wages and benefits, mental anguish and suffering, embarrassment and humiliation.
47. The discriminatory actions of the Defendant against Plaintiff were both willful and intentional, and demonstrate a complete disregard for Plaintiff's civil rights.

**IX. DEMAND FOR A JURY TRIAL**

48. Plaintiff hereby demands a jury trial on all issues raised herein.

WHEREFORE, Plaintiff prays that this Court shall:

- a) Assume jurisdiction of this cause and set the same down from trial;
- b) Declare the conduct of the Defendant to be in violation of Federal Law;
- c) Award Plaintiff actual damages payable by the Defendant for loss of back and front pay, salary, earnings and other benefits denied her because of Defendant's discriminatory conduct;
- d) Award Plaintiff compensatory damages;
- e) Award Plaintiff punitive damages based on the Defendant's willful and intentional violation of the Plaintiff's civil rights;
- f) Award Plaintiff reasonable attorneys' fees in the action;
- g) Award such other and further relief as the Court shall deem just and proper.

DATED: May 31, 2007

Respectfully submitted,

*/s/ Steven H. Grocott*

---

STEVEN H. GROCOTT, ESQ.  
MORIARTY & GROCOTT  
*Attorneys for Plaintiff*  
1109 Delaware Avenue  
Buffalo, NY 14209  
Telephone: (716) 881-6400  
Email: steel7@adelphia.net

**VERIFICATION**

STATE OF NEW YORK     )  
COUNTY OF ERIE       ) ss.:  
CITY OF BUFFALO       )

I, LAUREL A. GIBBS being duly sworn, deposes and says: that deponent is the Plaintiff in the within action; that deponent has read the foregoing Complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

*/s/ Laurel A. Gibbs*

\_\_\_\_\_  
LAUREL A. GIBBS

Sworn to before me this  
31<sup>st</sup> day of May, 2007

*/s/ Steven H. Grocott*

\_\_\_\_\_  
Notary Public

Steven H. Grocott  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires May 15, 2010

**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See Privacy Act Statement

before completing this form

AGENCY

FEPA

EEOC

CHARGE NUMBER

**525 2007 00269**

New York State Division of Human Rights

and EEOC

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)

Mrs. Laurel A. Gibbs

HOME TELEPHONE (Include Area Code)

(716) 773-9240

STREET ADDRESS

CITY, STATE AND ZIP CODE

1921 Marjorie Road, Grand Island, NY 14072

DATE OF BIRTH

[REDACTED]

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

NUMBER OF EMPLOYEES, MEMBERS

TELEPHONE (Include Area Code)

St. Stephen's School

100

(716) 773-4347

STREET ADDRESS

CITY, STATE AND ZIP CODE

2080 Baseline Road, Grand Island, NY 14072

COUNTY

Erie

NAME (Indicate Mr., Ms., Mrs.)

HOME TELEPHONE (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

- RACE
- COLOR
- SEX
- RELIGION
- AGE
- RETALIATION
- NATIONAL ORIGIN
- DISABILITY
- OTHER (Specify)

DATE DISCRIMINATION TOOK PLACE EARLIEST (ADE/AEPA) LATEST (ALL)

6/22/2006

CONTINUING ACTION

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

See Attached

**RECEIVED**  
20 NOV 2006  
**E.E.O.C. DUJO**

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.

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

Date 11/13/2006

*Laurel A. Gibbs*  
Charging Party (Signature)

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

SIGNATURE OF COMPLAINANT

*Laurel A. Gibbs*  
SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE

**STEVEN H. GROCOTT**  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires 05/15/2010

**EXHIBIT "A"**

**THE PARTICULARS ARE:**

I am a fifty-nine (59) year old female citizen of the United States. I was employed by St. Stephen School, A Roman Catholic Elementary School, located at 2080 Baseline Road, Grand Island, New York 14072 as a School Teacher beginning on September 3, 1986. I gave twenty (20) years of service and dedication to St. Stephen's, teaching various subject areas, including Language Arts, Reading, Social Studies and Mathematics predominately to 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> grade middle school students. From 1989 through 1991, in addition to my teaching duties, I served St. Stephen's as an Assistant Principle. While employed by St. Stephen School, I always received above-average yearly performance appraisals (for all years in which appraisal were conducted) and I never was indicated to have unsatisfactory job performance. In fact, a received an award for my dedication and service as recently as 2005.

In or around fall 2001, Mrs. Donna Ende was selected by the St. Stephen community to serve as the School's first lay principal. At all times prior, principals at St. Stephen School had been nuns.

Once, Mrs. Donna Ende became principal, all teachers, including myself, stopped receiving yearly performance appraisals, in contravention to the St. Stephen R.C. Church Parrish Handbook, for lay employees. The handbook, specifically states that "[employees] are entitled to an annual performance appraisal by [the employee's] immediate supervisor or Department Head." Although each year I requested that Mrs. Ende conduct a performance evaluation, I was never given one. Nor was I ever given any reason to believe that my performance was in any way unsatisfactory.

On or about June 30, 2006, I was told by Mrs. Ende that my contract would not be renewed for the 2006-2007 school year. The only reason that I was given for this action was that due to financial reasons, the School's Advisory Board had recommended my termination. The Advisory Board, comprised of several parents of the School's students, and several members of the Parrish, provides advising in the area of planning, finance, public relations, and policy.

When my husband contacted the Parish's Business Manger, Mrs. Karen Cammarata, to inquire about the Advisory Board's involvement and the stated reason of finances for my termination, Mrs. Cammarata specifically stated that the decision for my termination was not based upon finances. Moreover, she stated that the Advisory Board has no involvement in the hiring or firing of teachers at St. Stephen.

At the time of my termination, I was one of the highest, if not the highest, paid teacher, had the most years of service and was one of the oldest, if not the oldest, employees at the School.

Even if my termination was based in part on finances, or staff reduction or reorganization the handbook states, that

"[u]nder certain conditions related to financial resources, reorganization of employees or change in the administrative structure, as determined by the Parish, it may be necessary to transfer or release some employees. Should this occur, the ability, skills, performance, job attendance and education of employee will be considered as factors in retention...[i]f and employee is released due to staff reduction or reorganization, he/she will receive two weeks severance pay in addition to remuneration for any unused and accrued vacation time."

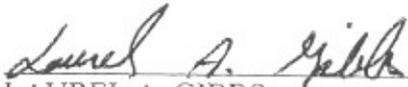
I have no reason to believe that the above-reference factors were ever considered. Nor was I ever given any severance pay or an opportunity to retain my position at lesser pay.

If my termination, as Mrs. Cammarata indicated was not based upon financial resources, but for some other reason, I should have been given a consultation with the Pastor. According to the handbook, "[u]nder certain circumstances, an employee may be immediately dismissed. Consultation with the Pastor is required prior to any dismissal." Yet, at no time prior to my dismissal, did I participate in any consultation with the Pastor.

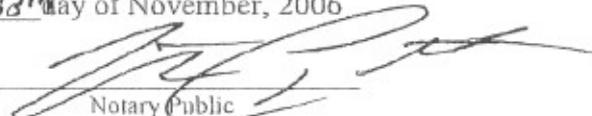
After my termination, I have learned that St. Stephen School has replaced my position by hiring a much younger individual that has recently graduated college and has no prior teaching experience.

It is based upon the foregoing, that I believe that I have been discriminated by St. Stephen School on the basis of my age (59) in violation of the Age Discrimination in Employment Act of 1967, as amended, ("ADEA"), 29 U.S.C. §§ 621 *et. seq.*

Dated: November 13<sup>th</sup>, 2006  
Buffalo, New York

  
LAUREL A. GIBBS

Sworn to before me this  
13<sup>th</sup> day of November, 2006

  
Notary Public

**STEVEN H. GROCOTT**  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires 05/15/ 2010

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Laurel Gibbs
1921 Marjorie Road
Grand Island, NY 14072

From: Buffalo Local Office - 525
6 Fountain Plaza
Suite 350
Buffalo, NY 14202

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

EEOC Charge No. 525-2007-00269
EEOC Representative David Ging, Investigator
Telephone No. (716) 551-3035

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 as defined by the Americans with Disabilities Act.
The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
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 were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.
[X] 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 of your receipt of this Notice; or 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
Elizabeth Cadle, Director

MAR 05 2007
(Date Mailed)

Enclosure(s)

cc: Melinda G. Disare Esq.
Damon and Morey
1000 Cathedral Place, 298 Main St.
Buffalo, NY 14202-4096

Donna Ende, Principal
St. Stephen's School
2080 Baseline Road
Grand Island, NY 14072

Steven H. Grocott
Robert B. Moriarty & Assoc.
1109 Delaware Avenue
Buffalo, NY 14209-1699

EXHIBIT 'B'

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