

STATE OF MINNESOTA  
COUNTY OF RAMSEY

EMPLOYMENT  
DISTRICT COURT  
SECOND JUDICIAL DISTRICT

Clifford L. Whitaker, Michael V. Mucci,  
Robert W. Coats, Rosemary J. Sterrett,  
Mark D. Swanson, and Thomas R.  
Bulen, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

vs.

3M Company,

Defendant.

Court File No. 62-C4-04-012239

[T. Warner]

**SECOND AMENDED COMPLAINT**

[Class Action]

Plaintiffs, as and for their causes of action against the above-named defendant, state and allege as follows:

**INTRODUCTION**

1. Since 2001, if not earlier, 3M has engaged in an interwoven set of personnel actions designed to elevate younger employees to the company's leadership and to remove employees over the age of 45 — perceived as less able or willing to accept and apply new business methodologies adopted by the company. 3M has effectuated this campaign through its performance appraisal system and ratings, its policy and practice of selection for intensive leadership training, and its promotion, pay, and termination policies, practices and decisions. As a result, 3M has engaged in a pattern or practice of discrimination against salaried employees over the age of 45 throughout the State of Minnesota, including the plaintiffs, by assigning them lower performance ratings, virtually shutting them out of intensive leadership training opportunities, denying them promotions, awarding them smaller pay increases and fewer stock options than their younger peers, and disproportionately terminating them from employment,

including through “retirement” or “resignation” in response to threatened imminent involuntary termination.

2. 3M’s actions have violated the Minnesota Human Rights Act (“MHRA”), Minn. Stat. § 363A.01, *et seq.* Plaintiffs bring this action on behalf of themselves and a class in excess of 7,000 salaried 3M employees over the age of 45 who are or were employed in Minnesota. They seek injunctive relief to stop this widespread violation of the MHRA and monetary relief both to compensate for the damage already caused to themselves and other class members and to deter 3M and other employers from engaging in similar violations in the future.

### **PARTIES**

3. Clifford L. Whitaker (“Whitaker”) is a 61-year-old individual (born January 27, 1944) residing in Mahtomedi, Minnesota and employed by 3M in Ramsey County, Minnesota. Whitaker began his career at 3M in 1967, and by 1988 he was Laboratory Manager in the Research and Development organization. He received consistently good evaluations and was assessed as capable of advancing to a Director-level position. Since 2001, his career at 3M has been damaged as a result of 3M’s discrimination.

4. Michael Mucci (“Mucci”) is a 56-year-old individual (born September 12, 1949) residing in Hudson, Wisconsin, who was employed by 3M from 1977 to September 30, 2004, most recently in Ramsey County, Minnesota. By 1999, Mucci was instrumental in the development of a new product for 3M and held the position of Senior Specialist Special Projects in the Technical Services group. In 2000, Mucci accepted a choice to transfer to the Product Development group as a Senior Specialist Technical Services with the understanding that his duties and function would not materially change. Since 2001, Mucci’s career at 3M, like Whitaker’s, has been damaged as a result of 3M’s age discrimination. As described more fully

below, this discriminatory conduct culminated in Mucci's termination when 3M eliminated Mucci's job effective September 30, 2004. Mucci refused overtures from 3M that he accept severance benefits conditioned upon a release of all claims against 3M.

5. Robert W. Coats ("Coats") is a 60-year-old individual (born May 27, 1945) residing in St. Paul, Minnesota, who was employed by 3M from 1969 through 2004, most recently in Ramsey County, Minnesota. Coats was in sales, training and management at 3M, achieving the position of Global Marketing Manager in the Industrial Tape and Specialties division in 1996. Throughout his career he typically received good evaluations. In 1999, 3M moved him from a management to sales position. Since 2001, his career at 3M has been damaged as a result of 3M's discrimination. Despite consistent exemplary performance, 3M among other things has delayed providing Coats Green Belt training, demoted him two job grades, failed to consider him for positions appropriate to his experience and performance, rated him lower than appropriate on performance reviews, and gave him a smaller percentage salary increase than younger sales people in his department. Because of this treatment and its adverse effect on his career, Coats retired from 3M in January 2005.

6. Rosemary J. Sterrett ("Sterrett") is a 57-year-old individual (born February 11, 1948), residing in Inver Grove Heights and employed by 3M in Ramsey County. Sterrett began working for 3M in 1982 and currently is a Data Administration Coordinator in the Medical division. She typically has received good reviews. Since 2001, Sterrett's career at 3M has been damaged as a result of 3M's age discrimination, including 3M giving her an unfair performance review for her work in 2004, unfairly putting her on an Informal Performance Correction Plan and telling her that her job was in jeopardy if she did not succeed in completing the plan, and giving her smaller percentage salary increases.

7. Mark D. Swanson ("Swanson") is a 54-year-old individual (born June 9, 1951) residing in River Falls, Wisconsin and employed by 3M in Ramsey County, Minnesota. He began working for 3M in 1980, initially as a facilities analyst. After completing an MBA program in Marketing in 1993, Swanson moved into marketing at 3M. He has worked in the Medical division since 1995, achieving the position of Global Market Development Manager. Since 2001, his career at 3M has been damaged as a result of 3M's discrimination, including unfair performance evaluations, being placed on corrective action plans, and a recent demotion of two job grade levels from management to an administrative position.

8. Thomas R. Bulen ("Bulen") is a 54-year-old individual (born June 23, 1951), residing in White Bear Lake, Minnesota and employed by 3M in Ramsey County, Minnesota. Bulen began working for 3M in 1985 as an Advanced Technical Service Engineer in the Medical business. 3M promoted him to Senior Technical Service Engineer in 1996 and he had a track record of receiving good evaluations. Since 2001, his career at 3M has been damaged as a result of 3M's discrimination, including 3M's unfair review of his performance in 2002 and failure to promote him.

9. 3M Company is incorporated in the State of Delaware and has its corporate headquarters at 3M Center, St. Paul, Minnesota. 3M does business in this District and throughout the State of Minnesota. In addition to its corporate headquarters and primary research and development, administrative and product information facilities in St. Paul, 3M employs or has employed class members in sales, fabricating or manufacturing facilities in Alexandria, Cottage Grove, Eagan, Eden Prairie, Fairmont, Hutchinson, New Ulm, Oakdale, Staples and Stillwater, Minnesota. A new Chief Executive Officer and Chairman ("CEO") took over leadership of 3M in 2001. He promptly instituted new business strategies and practices

