

MARKETPLACE

Net Interest: Political Web sites offer new way to follow races, issues *Page B10.*

Advertising: Publicis chairman airs his views on True North fracas *Page B13.*

AW

Restructurings Lead To Lawsuits Alleging Age Discrimination

Continued From Page B1

that the discussion "reinforces my belief in the need for change and provides some good ideas on how change can be achieved."

In the Ryder case, Westinghouse objected to the admission of the memo as evidence because it was written after Mr. Ryder's dismissal. The judge, however, allowed it to be admitted on the ground that it indicated the company's state of mind at the time Mr. Ryder was let go.

Labor and legal experts say Westinghouse might have avoided litigation in the Ryder case simply by giving him more notice and presenting him with options rather than seeming to throw him out the door. "People often sue not because they were discriminated against, but because they were treated in a degrading manner," says Dan O'Meara of Cozen & O'Connor, a Philadelphia law firm specializing in labor matters.

The EEOC also believes the memo shows the corporate state of mind leading to the 250 layoffs it is litigating. The commission filed suit on behalf of the workers in June 1993 at U.S. District Court in Baltimore. "We would hope that [the memo] could be used," says Arlene Shadon, supervisory trial attorney on the case.

Meantime, the memo has made the rounds at Westinghouse, and the "blocker" remarks, in particular, have embittered some longtime managers. A group of Westinghouse executives and retirees were golfing at Conneaut Lake, Ohio, this summer when one man, still on the payroll, burst into an impromptu song to the tune of the old Dr. Pepper jingle: "I'm a blocker, you're a blocker, we're all blockers . . ." Then he asked Mr. Ryder for the name of his lawyer.

Restructurings Generate Rash of Age-Bias Suits

By PAULETTE THOMAS

Staff Reporter of THE WALL STREET JOURNAL

Adding youth and vigor to a corporate culture is fine — if you treat the old-timers carefully on their way out the door.

As mammoth companies like AT&T Corp. and Eastman Kodak Co. trim their work forces and remove tiers of veteran employees, age-discrimination suits are beginning to outnumber sex-discrimination suits in the U.S., experts say. Cast-off

LEGAL BEAT

middle managers who commanded high salaries are particularly prone to sue because they have more to gain by pursuing lost wages, says Dan Gallipeau, of Dispute Dynamics Inc., a legal-consulting firm based in Los Angeles. These days, Mr. Gallipeau says, when he gives seminars on age-discrimination strategies, personal-injury lawyers pack the house, sensing a hotbed of business.

Some of this sort of business is coming from former employees of Westinghouse Electric Corp., where some 12,000 mostly older workers have lost their jobs as the century-old Pittsburgh company scales back its creaky industrial businesses and focuses on its flashier CBS broadcasting unit. Westinghouse won't disclose how many individual age-discrimination suits have been filed against it. But a class-action suit filed by the Equal Employment Opportunity Commission on behalf of 250 workers aged 40 or above who were dismissed by a former Westinghouse defense

unit is now one of the commission's largest pending cases.

Westinghouse lacks a corporatwide policy for layoffs, leaving issues such as severance up to individual business managers. But John Bergen, senior vice president for corporate relations at the company, says, "the basic policy is we don't discriminate, and we don't encourage it, and we don't condone it." He says some employees will inevitably be unhappy with the current corporate shake-up. "In a performance culture, you want to let people know there is a reward for high performance. Some people move to the top, and some don't."

One who didn't, and whose tale illustrates the possible consequences of dismissing an older employee with the intent of filling the vacancy with someone younger, is John Ryder, a 30-year Westinghouse employee who was 53 years old when he was dismissed three years ago. This past May, Mr. Ryder won a \$241,909 judgment in an age-discrimination suit against Westinghouse. Labor lawyers say the company made a series of missteps in the

Ryder case that are instructive in how not to deal with older executives. Westinghouse, which is appealing the judgment, declines to comment on the case.

Mr. Ryder, an assistant controller in the Power and Environmental Systems Group, was talking with his boss's secretary when he was unexpectedly called into his boss's office and told that his 30-year career would be over in five months. The meeting lasted five minutes. A woman in her 30s assumed his responsibilities under a different title.

Mr. Ryder knew of other veteran employees let go by the company who had been given severance contracts or who had received severance bonuses after signing documents waiving their right to file suit against the company. Such waivers, rare in the past, have been more common at Westinghouse since Chairman Michael Jordan arrived in 1993. "We see them becoming increasingly important in the separation process," says Mr. Bergen, the corporate-relations executive.

For his part, Mr. Ryder was offered neither a consultancy nor a bonus and wasn't asked to sign a waiver.

At home, as Mr. Ryder's disbelief turned to anger, his wife, Eleanor, pointed out a lawyer's advertisement in the local shopper. Mr. Ryder quickly made an appointment, retained the lawyer and the suit was filed in U.S. District Court in Pittsburgh in November 1993.

Mr. Ryder's attorney, Samuel Cordes of Ogg, Jones, Cordes & Ignatzi in Pittsburgh, was working on a separate age-discrimination suit against Westinghouse when

'Our low-growth businesses can strain opportunities for younger workers . . . We have to get the "blockers" out of the way," said an unidentified meeting participant.

that client gave him a copy of a company memo written in September 1994: The memo, under a cover letter from Mr. Jordan, had no named addressees and recounted remarks made by the chairman and other unnamed "participants" at a series of meetings in the summer of 1994.

One section of the memo quoted participants complaining about longtime company practices such as obtaining five signatures to approve travel expenses. One participant in favor of changing such practices was quoted as saying: "We think we need to get younger individuals who think well and who think differently involved in the process as well."

Another was quoted as saying: "In many of our businesses we have an older work force . . . Additionally, our low-growth businesses can strain opportunities for younger workers. . . . We have to get the 'blockers' out of the way."

In his cover letter forwarding the summaries of the meetings, Mr. Jordan writes: *Please Turn to Page B14, Column 1*

'We need . . . younger individuals who think well and who think differently involved in the process,' said one participant at a Westinghouse meeting.