

United States Court of Appeals  
FOR THE EIGHTH CIRCUIT

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No. 97-2343

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Judith Walther,

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Plaintiff - Appellant,

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\* Appeal from the United States

v.

\* District Court for the

\* Eastern District of Missouri.

Everest & Jennings, Inc.; Everest &  
Jennings International, Ltd.,

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\* **[UNPUBLISHED]**

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Defendants - Appellees.

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Submitted: December 11, 1997

Filed: January 12, 1998

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Before WOLLMAN, FLOYD R. GIBSON, and LOKEN, Circuit Judges.

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PER CURIAM.

After losing \$55,000,000 in 1993, Everett & Jennings, Inc. (EJI), merged with Medical Composite Technologies (MCT). Though EJI was the surviving company, MCT's owner became the chief executive officer of the merged businesses. In February 1984, EJI terminated Judith Walther as its Vice-President of International Sales and Marketing, the stated reason being that the company in retrenching would concentrate its efforts on domestic sales. Walther commenced this action against EJI and a subsidiary, alleging age and sex discrimination.

The district court<sup>1</sup> granted summary judgment in favor of EJI, concluding that undisputed facts demonstrate (1) Walther was terminated as part of a reduction-in-force resulting from legitimate economic concerns; (2) she produced no evidence satisfying the additional showing of unlawful discrimination that is required to establish a prima facie case of discrimination in reduction-in-force cases, see Nitschke v. McDonnell Douglas Corp., 68 F.3d 249, 251 (8th Cir. 1995); and (3) even if she established a prima facie case, Walther presented no probative evidence that EJI's legitimate non-discriminatory reason for discharge was a pretext for intentional age or sex discrimination. Walther appeals. After careful *de novo* review of the record and the district court's analysis, we conclude that the court's conclusions are well supported by the summary judgment record. Accordingly, we affirm. See 8th Cir. Rule 47B.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.

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<sup>1</sup>The HONORABLE DONALD J. STOHR, United States District Judge for the Eastern District of Missouri.