

Statement of Ray Albano
on the Nomination of Judge Clarence Thomas
To the U.S. Supreme Court

Senate Judiciary Committee
September 19, 1991

My name is Ray Albano. I'm 60 years old, and I live in Seattle, Washington. I would describe myself as politically conservative. I have never voted for a Democrat for President, and the only Democrat I ever did vote for was Scoop Jackson. I have served as leader of the 21st District Republicans in Snohomish County, and as a Lynwood City Council member.

Seven years ago, I became the victim of age discrimination. What happened to me at the EEOC under the direction of Clarence Thomas is why I oppose his nomination to the U.S. Supreme Court. The EEOC did all it could to not help me. That agency did everything possible not to enforce the very law that it was charged with enforcing. In fact, the EEOC let the statute of limitations run on my claim, and it is only because of a special act of Congress and my own persistent efforts that I have gotten anywhere. And I know that my experience was not unique.

From 1973 to 1985, I worked as a sales representative for a major corporation. In 1983, I found out that the company had a plan to force out its older workers. Their plan became very real to me when I was denied a promotion. I was the most qualified candidate for the job, and the person selected was not even 25 years old. I asked to be

considered for another position, but was told that this was not a possibility either. I was told that both jobs were "young men's jobs."

I have degenerative arthritis, and in 1984 I had my hip replaced. For about two weeks, I was in the hospital, and I was on medical leave from October 1984 until January 1985. During this time, my employer expected me to carry a full workload. In fact, the day after I was released to return to work, my supervisor put me on probation, citing poor work performance. He also moved several of my key accounts and reduced my commissions. He told me that I would now have to call on retail stores, and I would have to help build displays for these stores. This meant carrying and lifting heavy cases -- work that was very painful and difficult for me because of my surgery. I was told that I had to do it -- I had no choice -- if I wanted to keep my job. I was so scared and upset that I would go home at night and cry. I couldn't afford to lose my job, and I tried to do the best I could, but every day, my supervisor would find something else wrong with my performance. Finally, I decided that I had no choice but to file an age discrimination charge.

I went to the EEOC in February 1985. I told them about the promotions I had been denied and why I believed it was because of my age. I told them about the company's plan to fire older workers. I told them about my surgery and the pressures placed on me during my medical leave. I told them about being placed on probation and my commissions being reduced the day after I came back to work. I told them that I had been given a job assignment that I found almost physically impossible to do, and that I

had a doctor's letter confirming this. I told them that I believed that my employer was harassing me to make me quit my job.

Despite all this, all the EEOC would do is put a claim of a denied promotion in the charge. They told me that I would be assigned an investigator and I could tell the investigator about all the harassment. I tried to discuss it further, but got nowhere. I was told to sign the complaint as it was drafted, so I did.

In late February 1985, I tried to discuss the harassment with the EEOC investigator. In fact, conditions at work had gotten worse. I was told, however, that I could not amend my claim.

Finally, all the abuse at work took its toll. I couldn't handle it any more -- either physically or emotionally -- and so I left my job on March 1, 1985. A few weeks later, I called the EEOC to tell them what had happened. I again asked if the charge should be amended to reflect the harassment. I was told that was not necessary.

Altogether, I had about 14 conversations with the EEOC. I had to initiate every call; they never contacted me. In many of these conversations, I tried to discuss the harassment and whether I needed to amend my complaint. Each time I was told no. I never received anything in writing from the EEOC telling me what was happening with my case. Finally, in February 1987, the EEOC told me that they were not going to do anything about my charge, and that it was too late to file suit.

I didn't do anything after that, because I thought there was nothing I could do. Then, I heard on the news that Congress had extended the statute of limitations for Age Discrimination claims. So, I found a lawyer, who filed suit for me in federal court. I lost. One of the reasons was that the statute of limitations had run.

I appealed my case to the Ninth Circuit Court of Appeals, where I finally won. On August 30, 1990, the court ruled that my suit could go forward. Finally, I have a trial date set for next April. The Ninth Circuit ruled that I had done all that could reasonably be expected to protect my rights, and that the EEOC had been at fault.

I flew here from Seattle because I think I have an important story to tell. I know that what happened to me at the EEOC was not isolated or unique. In fact, one of the EEOC case workers told me that they were simply following policy from Headquarters. They had received memos from Washington, D.C. telling them to get rid of their cases as fast as they could. And I was one of the many victims. As head of the EEOC, Clarence Thomas tried to gut the very law he was charged with enforcing. His record makes me question his respect for established law that may be at odds with his personal beliefs. I am here to oppose his confirmation to the U.S. Supreme Court.