

The Boston Globe

Older workers press age discrimination claims in challenge to IBM layoffs

Dozens from Massachusetts are among those alleging bias

By [Robert Weisman](#) Globe Staff, Updated January 22, 2022, 3:00 p.m.



Rolf Nelson worked on a jigsaw puzzle with his son Reid, 13, at his home in Boxborough. Nelson, 63, worked for IBM for 17 years before being let go. "It was out of the blue," he said. "They didn't give me a good reason. . . . [But] it was very clear that

They were a youthful brigade at Lotus Software in the 1990s, when the Cambridge firm was revolutionizing office work with its cutting-edge e-mail platform. When their company was swallowed by IBM, they helped the high-tech giant push into big data and digital health.

More recently, when they'd moved into their peak earnings-and-savings years — just as IBM was scrambling to remake itself for what it called “a new era of technology” — they were summarily fired.

Dozens of former Massachusetts employees, many of them Lotus veterans, are among more than 1,000 laid-off workers nationally who have charged IBM

with forcing out older staffers over the past decade as part of a strategy to build a younger workforce. All of the employees were in their 40s, 50s, and 60s when they lost their jobs. IBM has been fighting the charges for over two years, saying they have no merit.

Taken together, the allegations — filed both in federal court and with hundreds of private arbitrators — amount to one of the largest age discrimination cases in US history. At a time of heightened attention to racial and gender issues, the ex-IBMers are spotlighting what they say is another pervasive, though often hidden, bias in corporate America.



Former IBM employee Kathleen Stuart cared for her twin granddaughters Rayna (left) and Anastazia Caldwell, 2, at her home in Milton. Stuart was laid off in 2019 and sends out about three resumes a week. CRAIG F. WALKER/GLOBE STAFF/THE BOSTON GLOBE

“They basically throw you away after a long career,” said Kathleen Stuart of Milton, who worked for Lotus and IBM for 25 years. She was let go in 2019, when she was 61, and said she’d just received an excellent review for her work as a compliance manager. “I did so much at IBM. I went above and beyond. And the way it ended was so wrong.”

Stoneham resident Philip Monson, 61, logged 29 years at IBM and Lotus. He worked as an application developer on the Lotus Notes product and later in sales and business development for IBM. “Every job I ever had at IBM, people

came and patted me on the shoulder,” he said. He once won an in-house award for fixing a glitch in a base-camp communications system during a company trek to Mount Everest.

Then, in 2019, when Monson was 59, he was asked to join a phone call with a manager in New York who told him his job was being eliminated because a product he had worked on was being phased out.

“She started reading from a script,” he said. “I had known for a long time that IBM was doing that to people of a certain age. But I thought that with my background and awards and record of great performance, I was fine. I was shocked when it happened.”



Former IBM business development manager Philip Monson stretched before exercising near his home. MATTHEW J LEE/GLOBE STAFF/MATTHEW J LEE/GLOBE STAFF

Monson and Stuart are plaintiffs in a pair of lawsuits filed against IBM by nearly 200 former employees seeking class-action status in US District Court in New York. The outcome could have broad implications for workers and employers elsewhere because IBM has long been seen as a bellwether in American business.

“People are definitely watching these cases for what it means for age discrimination, and, generally, for older workers,” said Catherine Ruckelshaus, general counsel at the National Employment Law Project in New York, a group that advocates for workers’ rights.

Ruckelshaus said it’s become tougher to track age bias suits in the aftermath of a Supreme Court decision in 2018, in the *Epic Systems v. Lewis* case, that allows companies to use arbitration clauses in contracts to prevent workers from joining together in employment lawsuits. Since then, she said, employers have been able to effectively channel many age discrimination complaints to private arbitration hearings where the proceedings and outcomes are invisible to the public.

That shift in legal practice is at work in a big way in the IBM case. The challenges to the firm’s rolling series of job cuts are fragmented because, as a condition of receiving severance, the company required employees to sign pacts that included promises not to join in collective legal action. Only those who refused are being represented in the federal suits. More than 800 others, who signed the agreements, are contesting their dismissals in individual arbitration cases nationwide.

The cases have been moving forward slowly. Boston lawyer Shannon Liss-Riordan, who represents more than 1,000 former IBMers, asked for federal court permission to notify all older US workers idled by the company in recent years that they were eligible to join the case. The request was denied last March by US District Judge Valerie Caproni, who ruled that she hadn’t seen evidence of “a common plan or policy behind IBM’s separation decisions.”

Liss-Riordan said such evidence exists in documents she’s fighting to have unsealed. Another federal court judge, Lewis Liman, ruled in her favor on that issue earlier this month, writing that the public’s right of access to the documents “trumps a blanket assertion of . . . confidentiality.” IBM has appealed that ruling.

That shift in legal practice is at work in a big way in the IBM case. The challenges to the firm’s rolling series of job cuts are fragmented because, as a condition of receiving severance, the company required employees to sign pacts that included promises not to join in collective legal action. Only those who refused are being represented in the federal suits. More than 800 others, who signed the agreements, are contesting their dismissals in individual arbitration cases nationwide.

The cases have been moving forward slowly. Boston lawyer Shannon Liss-Riordan, who represents more than 1,000 former IBMers, asked for federal court permission to notify all older US workers idled by the company in recent years that they were eligible to join the case. The request was denied last March by US District Judge Valerie Caproni, who ruled that she hadn't seen evidence of "a common plan or policy behind IBM's separation decisions."

Liss-Riordan said such evidence exists in documents she's fighting to have unsealed. Another federal court judge, Lewis Liman, ruled in her favor on that issue earlier this month, writing that the public's right of access to the documents "trumps a blanket assertion of . . . confidentiality." IBM has appealed that ruling.

IBM's former chief executive Ginny Rometty publicly unveiled a plan in 2016 to hire 25,000 employees in the next four years — including "new collar" workers, high school grads who could be taught digital skills — even as the company was eliminating other jobs. The company didn't specify how many jobs it would add or cut at specific sites or business units, but the federal lawsuit alleges it has laid off at least 20,000 since 2012, most of them older workers.

In a statement, company spokesman Christopher Mumma declined to provide the number of workers IBM has hired or terminated over the past decade or their average ages. But he flatly denied that the company was targeting older workers' jobs as part of a broader strategy.

The company's statement said that "IBM workforce decisions are based on having the right skills at the right levels in the right jobs, and never on the age of any individual or group of employees."

Mumma wouldn't disclose the size of IBM's workforce in Massachusetts. The company paid \$3.5 billion for Lotus in 1995, and has long run a research lab in Cambridge's Kendall Square, where it also later launched its health data business, IBM Watson Health. It also has operated a software development center in Littleton.

IBM is appealing Liman's ruling to unseal documents for wider use in arbitration cases because it would set a "concerning precedent," Mumma said. Workers who sign pacts barring them from engaging in collective action

“should not be permitted to avoid those agreements simply by breaching them when doing so becomes convenient,” he said.



Nelson worked in Littleton as an IBM senior product manager until he was let go in 2020 after training three new hires in their 20s who kept their jobs. CRAIG F. WALKER/GLOBE STAFF

Rolf Nelson, 63, of Boxborough, one of the employees challenging his dismissal through arbitration, worked for IBM for 17 years after it acquired his former company, Rational Software. Most recently, he was based in Littleton as an IBM senior product manager until he was let go in 2020 after training three new hires in their 20s who kept their jobs.

“It was out of the blue,” Nelson said. “They didn’t give me a good reason. . . . [But] it was very clear that they were going to let the most experienced people go, who were the highest paid people.”

Nelson, who’s applied for other technology jobs but hasn’t gotten past the first interview, is currently working the night shift on the checkout line at a Trader Joe’s. He wants to continue working for at least another seven years, in part to help his 13-year-old son pay for college.

IBM, a powerful but no longer dominant force in technology, has reinvented itself multiple times since its founding in 1911. And it doesn’t deny that it’s

been pushing forward with yet another makeover in the new era of cloud computing and artificial intelligence.

In a televised 2017 interview with CNBC, then-CEO Rometty sat in a director's chair at an IBM design center in New York. She stressed the need to embrace "new-collar skills of the future" as a dozen informally dressed young workers typed on computers in an open office format behind her. "You're surrounded by folks and kids like this at many IBM centers around the world," she said. "Fifty percent of IBM are millennials here."

More than two years after she was laid off, Kathleen Stuart, now 64, continues applying for jobs from her home in Milton, where she also baby-sits her grandchildren. She sends out about three resumes a week, she said, "and have not heard anything. It's very discouraging."



Stuart helped her granddaughters down the stairs to play at her home in Milton. CRAIG F. WALKER/GLOBE STAFF/THE BOSTON GLOBE

Stuart, who grew up in Boston's Jamaica Plain neighborhood and studied business at the University of New Hampshire, was an IBM information manager and business analyst. "At IBM, you don't coast," she said. When she

was laid off by a new manager she'd never met, Stuart said, she asked why her name was on the layoff list.

The manager, she said, replied, “I don't really want to discuss that.’

“I said, ‘Well, let me tell you about the person you're laying off. . . . I've just got an excellent review, I'm the senior person on this team. If you read my review, you'd see all the process changes I've implemented.’

“And she said, ‘I didn't read your review.’ ”

Robert Weisman can be reached at robert.weisman@globe.com. Follow him on Twitter [@GlobeRobW](https://twitter.com/GlobeRobW).