

# Nassau sued on retiring cops' pay cap

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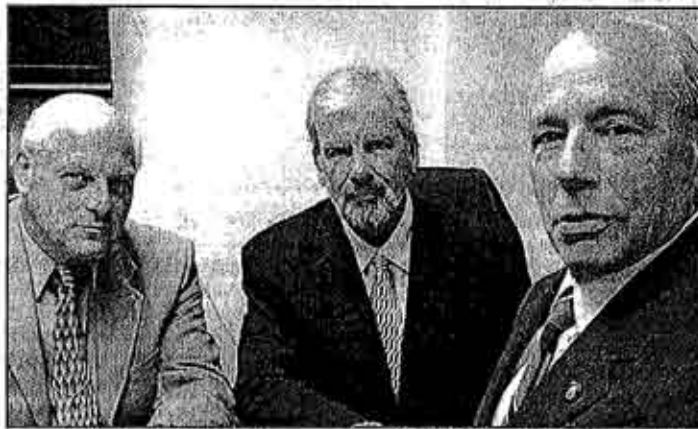
Instead of saving millions, Nassau County's recent cap on termination pay for retiring police officers could prove costly under a federal class-action lawsuit filed recently that claims the new limit amounts to age discrimination.

"Despite the appearance of neutrality, this policy and practice has a disparate impact on employees age 40 and is in violation of the Age Discrimination in Employment Act and the Employee Retirement Security Act of 1974," said Garden City lawyer James Vagnini. He filed the action yesterday in U.S. District Court in Central Islip.

The shift in policy stops retirees from getting, in some cases, more than \$500,000. It limits them to two years' pay instead.

The lead plaintiffs are three retired officers and three who are still working.

The three former officers charged they were forced out because the termination would cost them a lot of pay owed



From left: Det. Robert Young, retired Sgt. Richard Fogelson and retired Det. Sgt. Steven Schein at their attorney's office in Garden City yesterday.

them if they stayed on the job after June 30.

"I have three children, including one, 15, who still has to go to college," said a plaintiff, retired Sgt. Richard Fogelson, 55.

The working officers said they have lost large amounts because they did not retire.

"It was win-win for them and lose-lose for us," Fogelson said.

Chief Deputy County Execu-

tive Marilyn Gottlieb said: "We believe this was a legitimate, age-neutral concession ordered by the arbitrator to get excessive termination pay under control. In addition, courts have many times upheld these types of plans against challenges based on age discrimination."

Through arbitration and negotiation with the county's three police unions — patrol officers,

superior officers and detectives — the new policy was put into effect and even moved up from November to July because of County Executive Thomas Suozzi's announced financial crunch for Nassau.

Now Suozzi, the county, its police department, the Police Benevolent Association, Superior Officers Association, Detectives' Association Inc. and Suozzi's chief labor aide, Dan McCray, are defendants.

Police union president Jim Carver and DAI president Tom Willdigg would not comment on a pending lawsuit. No one was available at the SOA.

One Plaintiff, 5th Precinct Det. Robert Young, 63, said he lost \$97,000.

"This was time and pay that we earned and owned, but they took it from us," Young said.

Retired Marine Bureau Det. Sgt. Steven Schein, 62, with 36 years on the job, said he felt "pushed out."

Other plaintiffs are retired Det. Michael O'Leary, 61, Homicide Det. Gary Ferucci, 61, and Det. John Birbiglia, 58.