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U. S. Supreme Court Considers “Me Too” Evidence of Age Discrimination

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The Age Discrimination in Employment Act (ADEA) protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA's protections apply to both employees and job applicants. Under the ADEA, it is unlawful to discriminate against a person because of his/her age with respect to any term, condition, or privilege of employment -- including, but not limited to, hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training. It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on age. Remedies under the ADEA include lost wages, reinstatement and/or front pay (continuing damages for lost wages), and liquidated damages if the jury finds that the employer's conduct was “willful.” A violation is willful if the employer either knew or showed reckless disregard for the matter of whether the conduct was prohibited under the ADEA. If the conduct is deemed to be willful, then the employee is entitled to liquidated damages or “double damages” in an amount equal to the employee's actual damages. Should the jury find for the employee then costs and attorneys' fees are also recoverable against the employer.

Recently, the U.S. Supreme Court considered whether a former employee could present evidence of age discrimination by using the testimony of five former employees who also claimed they were the victims of age discrimination. In that case, the trial court refused to allow the evidence finding it irrelevant since none of the other employees had the same supervisor as the plaintiff or worked in the same division of the company. However, the Supreme Court rejected the outright refusal of the so called “me too” evidence and found that such evidence must be considered on a case-by-case basis while considering all the evidence of the plaintiff's case. As such, as with all employment discrimination matters a detailed analysis of the facts and circumstances of the case should be carefully considered. For additional employment information, please visit our web site at www.joettedoran.com .

**This article is not intended as legal advice. You should consult with an attorney for individual advice regarding your own situation.*

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