

# THE INSIDE PERSPECTIVE

LABOR AND EMPLOYMENT LAW SOLUTIONS FOR EXECUTIVES AND HR PROFESSIONALS



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## Recent Supreme Court Ruling Favors Older Employees

A 5-to-3 decision from the United States Supreme Court handed down March 30 holds that even without proof of *intentional* age bias by an employer, age claims may be brought where workers show that a specific practice, policy or test has a greater negative *impact* on employees who are over 40 than it has on younger employees.

In Smith v. City of Jackson, older police department employees challenged a wage raise plan that provided employees with fewer than five years seniority the largest percentage wage increase. The City's stated reason for the plan was to bring wages up to market rates and improve retention.

The Supreme Court decided that the police officers could bring the claim even though there was no evidence of intentional discrimination. However, the older workers did not prevail because they did not show that the City's wage plan had an adverse impact on older workers.

The Court also found that the City mounted a successful defense by showing that its policy was based on a "reasonable factor other than age." The Court reaffirmed previous rulings that employers may defeat age claims by proving that their actions are motivated by reasonable, nondiscriminatory factors.

What can you learn from Smith v. City of Jackson to protect your business from age discrimination claims?

- Review your existing practices and policies to determine whether they may have an adverse impact on older workers.
- If your policies potentially adversely impact older workers, be prepared to prove that there is a reasonable basis other than age for the policies.
- Avoid mandatory retirement policies. If you offer exit incentives, make them voluntary.
- Contact an attorney before making age-related changes to eligibility for group health benefits.

# TIP

The United States Supreme Court has held that older workers may bring age discrimination cases under the federal Age Discrimination in Employment Act (ADEA) by showing that an employer's policy or practice has a negative effect on older employees as a group regardless of the employer's motivation.



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