



Class Action Age Discrimination Case Against Google Moves Forward

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A software developer in California recently prevailed in a key ruling regarding her lawsuit against Google. The developer, Cheryl Fillekes, originally brought a suit against the multinational technology company in 2015, claiming that the company systemically discriminates against older job applicants and employees.

By way of background, Fillekes interviewed with Google for four different positions between 2007 and 2014. Fillekes was not hired for any of these positions at the company, despite her claims of being qualified, and alleged that it was due to her age. According to the Equal Employment Opportunity Commission ("EEOC"), age discrimination "involves treating someone, either an applicant or an employee, less favorably because of his or her age." The Age Discrimination in Employment Act ("ADEA") forbids age discrimination against individuals who are forty years old or older.

The complaint against Google states "Plaintiffs allege that Google has engaged in a systematic pattern and practice of discriminating against individuals (including Plaintiffs) who are age 40 and older in hiring, compensation and other employment decisions with the resultant effect that persons age 40 or older are systematically excluded from positions for which they are well-qualified." As evidence of the alleged unequal treatment, Fillekes stated that a recruiter for Google instructed her to mark down the dates of graduations from schools on her resume "so the interviewers [could] see how old [she was]." Furthermore, Fillekes submitted statements from seven other individuals who claimed to have had similar experiences with the company and cited statistics that claim the median age for programs at Google is 29 years old, compared to a national average of around 42 years old.

Google has rejected all of Fillekes' allegations, claiming that they are without merit. "We believe the allegations here are without merit and we will continue to defend our position vigorously. We have strong policies against discrimination on any unlawful basis, including age," said a spokesperson for the company.

In a lengthy court order, U.S. District Judge Beth Freeman recently certified the case against Google, which in essence permits aggrieved applicants aged 40 and older to unite against Google in a single suit. People who "interviewed in person with Google for a software engineer, site reliability engineer or systems engineer position when they were 40 years old or older, and received notice on or after August 28, 2014, that they were refused employment, will have an opportunity to join in the collective action against Google." The judge further instructed Google to compile a list of software developers over the age of forty who sat for an in-person interview and been denied a job. And although Google moved to dismiss the complaint, in part by citing age provisions in its

corporate anti-discrimination policy, Judge Freeman refused to dismiss the suit based on these facts alone, noting that all companies now have such policies, and thus they should not be considered proof that companies do not discriminate.

All corporate cultures should keep a close eye on this case and if necessary, update their hiring practices, policies, and procedures accordingly.

If you have any questions or concerns regarding employment related issues, please contact James G. Ryan at jryan@cullenanddykman.com or at 516-357-3750.

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