

A RATHER SURPRISING RESULT IN FAVOR OF EMPLOYEES AS THE U.S. SUPREME COURT RECENTLY DETERMINED THAT THE BURDEN OF THE EMPLOYER IS INCREASED IN DEFENDING ADEA CLAIMS.

Knolls Atomic Power Lab (“Employer”) dismissed employees during an involuntary reduction in force. Supervisors were instructed to rank all employees based on three factors: performance, flexibility, and the critical nature of their work skills, and then to add points for years of service, in order to determine which employees would be dismissed. Thirty-one employees were dismissed and thirty of the employees were over the age of 40. Sixty percent of Knolls Atomic Power Lab's workforce was over the age of 40.

Twenty-six of the dismissed employees sued under the Age Discrimination in Employment Act (ADEA), using a disparate impact theory. A jury found for the employees and the U.S. Court of Appeals for the Second Circuit Court of Appeals affirmed the jury verdict but later vacated its decision and held that the twenty-six employees had failed to carry their burden of proving the evaluation system unreasonable.

The question for the US Supreme Court was, as between the Employer or the twenty-six dismissed employees, who must prove the reasonableness of the dismissals in a claim of age discrimination under ADEA?

The US Supreme Court held that under the provisions of the ADEA, it was the Employer, who must sustain both the burden of production and the burden of persuasion of the use of "reasonable factors other than age" in the decision to terminate the employment of the twenty-six dismissed employees.

This US Supreme Court decision increases the burden of an employer in proving that a decision to terminate an employee over the age of 40, was done using "reasonable factors other than age," to determine which employees are to be terminated, when an employee claims discrimination under the ADEA.