

Is the Economic Downturn to Blame for Rise in Age Discrimination Claims?

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As the economy continues to falter, many employers are faced with the difficult task of reducing their workforce. In order to avoid a further business disaster, it is important to ensure that any [employment decisions](#) are based on the employees' merits rather than their age.

As evidenced by the uptick in age discrimination lawsuits filed by the Equal Employment Opportunity Commission (EEOC), many employers were not fortunate enough to receive this advice. The agency recently [announced](#) that global technology giant 3M has agreed to pay \$3 million to a class of former employees and implement preventive measures to resolve a nationwide age discrimination lawsuit filed by the agency.

According to the EEOC, the lawsuit charged that 3M unlawfully laid off hundreds of employees over the age of 45 during a series of reductions in force (RIFs) from July 1, 2003 through Dec. 31, 2006. 3M laid off many highly paid older employees, among others, apparently to save money and cut workers in salaried positions up to the level of director, the agency said.

The EEOC also asserted that older employees were denied leadership training and laid off to make way for younger leaders. The agency's investigation found an employee e-mail describing then-CEO Jim McNerney's "vision for leadership development" as "we should be developing 30 year olds with General Manager potential" and "He wants us to tap into the youth as participants in the leadership development."

Pending judicial approval, the consent decree provides that 3M will pay \$3 million in monetary relief to approximately 290 former employees. In addition, 3M has agreed to implement a review process for termination decisions and training on how to prevent age bias. The company will also post openings for positions it had not advertised previously, to enable older employees to apply. Finally, 3M will report on its compliance, provide RIF information to the EEOC over the next three years, and post a notice about the settlement.

The Message for Employers

This case highlights that employers must base employment decisions upon each worker's strengths and talents instead of relying upon generalized assumptions regarding an employee's age. In addition, employers should clearly document how they determined who to let go when reducing staff levels.

About Beth Lincow Cole

The [Law Office of Beth Lincow Cole](#) is committed to helping employers comply with federal and state employment law and avoid potential business-wrecking lawsuits. If your company needs employee or management training or assistance in drafting, reviewing, or revising its EEOC/discrimination policies, [contact](#) employment law attorney [Beth Lincow Cole](#).