

A MEETING FOR RETIREMENT OPTIONS, OR A PRECURSOR TO EMPLOYEE TERMINATION?



Is it discrimination for a company to hold a meeting with employees all exceeding the age of 49 to consider retirement options? That's exactly what a former employee claims after the company laid her off. Jacki McWhorter had been an employee at Maynard, Inc., for ten years when she was requested to attend a meeting in May 2008, at which time she was 50 years of age. The president of the company, Joe Maynard, inquired about the employees' expectations from Maynard, Inc., with regard to a retirement package. In a subsequent meeting, employees openly suggested options for benefits once they had retired. Six months later, McWhorter was hospitalized and was unable to work for approximately two-and-a-half months, returning to Maynard, Inc., in Jan. 2009. Due to her medical condition, the employee informed her supervisor that she "was not strong enough to work full time" and was hoping to work fewer hours per week. That same month, the company began laying employees off, and in March, McWhorter received a Termination of Employment, with layoff cited as the reason. The company did not hire anyone to fill the position, opting instead to reassign the duties to McWhorter's former supervisor. Consequently, McWhorter filed suit, claiming that her termination was a violation of both the ADEA (Age Discrimination in Employment Act) and the ADA (Americans with Disabilities Act). The ADEA prohibits discrimination in the workforce against anyone over the age of 40, while the ADA was passed to protect employees with disabilities against discrimination. McWhorter's claim of an ADEA violation made reference to the May 2008 meeting and specified a comment made by the company president, in which he stated that "when people get older, they tend to slow down." He further referenced employees giving "100 percent" to remain employed at Maynard, Inc. The former employee additionally noted that the meeting was held outside of the company building, which she believed was "suspect." The ADA violation, according to McWhorter, was Maynard's decision to terminate employment after McWhorter returned to work. She believes that she was laid off due to her limited abilities and request to work part time as a result of her medical condition. The case was reviewed by the United States District Court, Western District of Arkansas. To prove her allegation of discrimination, McWhorter had to provide evidence that her age affected the decision to terminate her employment. The court, however, deemed Maynard's comment during the May 2008 meeting as a "stray remark," one that was not adequate evidence of discrimination, and did not agree with McWhorter that the meeting location was questionable. The district court further acknowledged that the employee had received full salary and benefits during her absence due to hospitalization, that the company provided her with a laptop while in the hospital, and that, following the layoffs, there was a higher percentage of employees at Maynard, Inc., over the age of 50. The district court did not believe that McWhorter had supplied the necessary evidence to prove discrimination. The court ruled in favor of Maynard and dismissed the complaint.