

BANK MANAGER CLAIMS SHE LOST JOB BECAUSE OF HER AGE



A woman working as a bank manager sued her former employers, claiming that her termination was based on her age. Did the courts believe she had a case? The plaintiff was hired as a bank teller for Lafayette Bank & Trust Company in 1980. She was promoted to a branch manager in 1995. Her annual performance evaluations in 2004 and 2005 cited “improvement needed” due to complaints from customers and employees concerning her pessimistic attitude and unprofessional conduct. After receiving additional complaints, the Executive Vice President provided the woman with the option of either resigning or writing a “letter of commitment,” in which she vowed to improve her attitude and customer interaction. She wrote the letter, acknowledging that failure to meet the pledges would result in the loss of her job. Two weeks later, the company received a complaint about the woman cursing and improper behavior toward an employee. She was subsequently fired. At the time, she was 44 years of age. Her resulting lawsuit alleged age discrimination and retaliation – for complaints made – violating the Age Discrimination in Employment Act (ADEA). The bank responded with a charge of its own, claiming breach of the Indiana Trade Secrets Act, civil and criminal conversion (the woman had allegedly taken records and documents), and replevin, by which the company was seeking recovery for the alleged theft. The bank made a motion for summary judgment, and the plaintiff countered by waiving the ADEA age discrimination claim. The district court granted summary judgment in favor of the bank with regard to the woman’s retaliation claim, and the



bank’s claims were remanded to the state court for further proceedings.

The woman appealed the summary judgment on the retaliation claim. The appeals court noted two ways in which the plaintiff could substantiate her claim: a direct or indirect method. The essential difference is that the indirect method could bypass proving a causal link between a protected activity and her termination, but both methods require evidence that the woman was engaged in protected activity recognized by law. For the woman’s complaints to be protected activity, she had to show an “objection to discrimination” based on age. The woman’s complaints included asking about the formula used to calculate a contribution to her pension plan, complaining of cutbacks to her branch staff, and a complaint concerning her 401(k) contributions. The appeals court saw these as “general complaints” that did not prove activity protected by the ADEA because there was no clear objection to age discrimination. The woman’s EEOC (Equal Employment Opportunity Commission) charge was indeed protected activity, but she had not filed it until five months after her termination. Retaliation can only be established if the employer had knowledge of the protected activity, which was not the case here. As the plaintiff was unable to show that she was engaged in protected activity, the appeals court affirmed the grant of summary judgment against the retaliation claim.