

Federal Court Allows ADEA “Pattern-or-Practice” Claim To Proceed

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Earlier this week, a federal district court in Florida allowed the Equal Employment Opportunity Commission's (EEOC) pattern-or-practice discrimination claim against a national restaurant chain to proceed (*EEOC v. Darden Restaurants, Inc.*). The EEOC brought its lawsuit against Darden Restaurants, Inc., alleging the company had hiring practices that favored younger applicants over those who were older, and that such practices violated the Age Discrimination in Employment Act (the ADEA). In support of these allegations, the agency relied on data showing Darden's hiring of individuals over 40-years-old was less than what would have been expected. The EEOC also pointed to several statements made by hiring managers, such as “we are looking for ‘fresh’ employees,” “you are too experienced” and “we are not looking for old white guys.” Darden moved to dismiss the lawsuit, arguing that the EEOC lacked authority to assert a pattern-or-practice claim under the ADEA. According to Darden, whereas Title VII expressly authorizes the government to assert pattern-or-practice discrimination claims, the ADEA does not contain similar language. Because Congress knew how to include language that would have allowed the agency to bring pattern-or-practice claims (since it had done so with respect to Title VII), the fact Congress did not include such language in the ADEA was intentional and fatal to the EEOC's claim against Darden. The district court rejected Darden's argument. Though the court acknowledged the differences in language between ADEA and Title VII, it ruled that it was bound by 11th Circuit precedent holding that government-brought pattern-or-practice claims were permitted by the ADEA. As a result, the court allowed the EEOC's lawsuit against Darden to proceed.

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