

California Supreme Court Limits the “Stray Remarks” Doctrine in Discrimination Cases

Insights for Employers Alert | 1 min read

Aug 9, 2010

A former director of operations and director of engineering at Google, Inc. sued the company alleging age discrimination. The trial court granted Google’s motion for summary judgment, finding that plaintiff’s evidence of “stray remarks” by non-decision-makers in support of his discrimination claim were insufficient evidence of discrimination to merit a trial. Under the “stray remarks” doctrine, which is routinely applied to federal discrimination claims, discriminatory remarks made by co-workers or non-decision-makers are not enough to overcome an employer’s motion for summary judgment. Courts deem such evidence irrelevant because it is not probative of a discriminatory animus on the part of those actually involved in the decision-making process. The California Court of Appeals reversed, holding the stray remarks admissible as potential evidence of discriminatory animus. The California Supreme Court agreed and rejected strict application of the stray remarks doctrine in California discrimination cases, counter to the doctrine’s wide acceptance in federal courts. The Supreme Court held that evidence of non-decision-makers’ stray remarks are admissible and must be considered along with the totality of the facts in determining whether the plaintiff has presented sufficient evidence of discrimination to necessitate a trial on the merits. The Court’s holding makes it more difficult for California employers to dispose of cases on summary judgment where the plaintiff’s discrimination claims rest on stray remarks made by non-decision-makers.

Reid v. Google, Inc., No. S158965 (August 5, 2010).

[Download PDF](#)

Related Capabilities

Labor & Employment