

Ninth Circuit Says Age Discrimination Laws Apply to Public Employers of Any Size

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In [Guido v. Mount Lemmon Fire District](#), the Ninth Circuit Court of Appeals held that the Age Discrimination in Employment Act (ADEA) applies to public employers of any size.

John Guido and Dennis Rankin were hired by Mount Lemmon Fire District (in Arizona) in 2000. They served as fire captains until June 15, 2009, when they were laid off. At the time of the layoffs, Guido was 46 and Rankin was 54 years of age. They were the oldest employees at the Fire District. In April 2013, the two sued their former employer for age discrimination.

The language of the ADEA states that the law applies to businesses with 20 or more employees. The law was amended in 1974 to apply to state and federal government bodies as well. The Fire District argued that because it did not have 20 employees, the ADEA did not apply to it. The U.S. District Court agreed with the employer and dismissed the case by summary judgment. Guido and Rankin appealed.

In a published decision, the Ninth Circuit disagreed with the district court and held that an employer under the ADEA is defined as a private employer with at least 20 employees, or any public employer regardless of the number of employees.

In doing so, the Ninth Circuit created a split among the circuit courts since four other circuit courts had found the law was ambiguous (6th, 7th, 8th, and 10th). They had interpreted the law to require that even public employers have 20 employees in order to be subject to the law.

While this decision specifically impacts public employers, it is a reminder to all employers that during a reduction in force, employers should carefully scrutinize those individuals selected for layoff to assure that the decisions are based on business needs, not age or other protected status.

If you have questions about this decision or need counseling associated with a reduction in force, please contact [Ameneh Ernst](#) in our Los Angeles office or your regular Hinshaw lawyer.

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Topics

ADEA, Age Discrimination, Layoff, Ninth Circuit Court Of Appeals, Public Employers, Private Employers, Federal Government, State Government, Employer, RIF, Reduction In Force, Circuit Split