

Employers, Take Note: EEOC Fails to Extend Damages to Age Discrimination Claims

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The Equal Employment Opportunity Commission (EEOC) has suffered a setback in its attempt to extend damages to claims invoking the Age Discrimination in Employment Act (ADEA). The ruling is good news for employers with employees in the Fifth Circuit because damages for claims invoked by the ADEA will be limited to front and back pay. The Fifth Circuit's ruling does not, however, extend to claims for other forms of alleged discrimination, such as race or sex.

On December 16, 2016, the Fifth Circuit settled the issue of ADEA damages with its jurisdiction in *Vaughan v. Anderson Regional Medical Center*, Docket No. 16-60104, after recognizing the divergent views of other circuits and the EEOC.

This case involved a nurse supervisor who alleged that her employer discharged her in retaliation for raising an age-discrimination complaint. The district court dismissed the plaintiff's claims for pain and suffering damages and punitive damages because the Fifth Circuit's prior decision in *Dean v. American Security Insurance Company* explicitly stated that "neither general damages nor punitive damages are recoverable in private actions positioned upon the ADEA."

The plaintiff suggested that *Dean* was not controlling because of amendments made to the Fair Labor Standards Act (FLSA) in 1977. The Fifth Circuit disagreed because the amendments to the FLSA merely borrowed language from the ADEA. The court also explained that the amendments brought the FLSA remedies in line with the ADEA's remedies for similar conduct. The Fifth Circuit also held that the EEOC's interpretation of the law is only persuasive and not binding on the court.

We do not anticipate that the incoming administration will seek to expand the damages allowed under the ADEA, but given the discord with differing circuits, this may be an issue for intervention by the Supreme Court at some time in the future. It is best to work with legal counsel to navigate these choppy waters.

For more information on ways to prevent and handle EEOC claims, please contact a member of McGlinchey Stafford's [Labor & Employment team](#). We offer comprehensive training and counseling for employers in this area and others.

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