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Increased Work Hours Did Not Constitute Age or Sex Discrimination under Title VII or the ADEA

M. Jane Minor worked as a sales representative for Centocor. Her job responsibilities included visiting physicians in hospitals to sell products that Centocor and its affiliates offered to treat vascular conditions. Shortly after she began working for a new supervisor, the supervisor required that Minor visit all of her accounts twice a month and her major accounts more frequently, which increased her weekly hours from about 50 to 90. Minor sued Centocor claiming that her increase in hours of work was motivated by her age and sex in violation of the Age Discrimination in Employment Act and Title VII of the Civil Rights Act. The trial court found that the decision to visit her accounts more frequently, which resulted in an increase in her working hours, was not based on Minor's age or sex and, accordingly, ruled in favor of Centocor. Minor appealed.

In [Minor v. Centocor, Inc.](#) (8/4/06) the U.S. Court of Appeals for the Seventh Circuit upheld the decision of the trial court. The appeals court determined that Minor's supervisor had required that all sales representatives under his supervision, including Minor, visit their customers every other week. The group of sales representatives included men and women over and under 40 years of age. The appeals court concluded that there was no evidence that

Minor was treated differently than the other sales representatives on account of her age or sex in violation of the ADEA or Title VII. [\[back\]](#)

EEOC May Proceed with Title VII Race Discrimination Lawsuit against Target for Refusing to Interview African American Job Applicants

Several African Americans applied for an executive team leader position at a Target store but none were hired. Kalisha White was denied an interview with store team leader Matthew Armiger, who claimed he was too busy. When White submitted a resume to Target from a fictitious individual with less qualifications than she had and asked a Caucasian friend to call to schedule an interview, Armiger granted the Caucasian friend an interview. Armiger also refused to call back or schedule interviews for two other African American applicants. The resumes of each of those applicants indicated that they were involved in African American organizations such as the NAACP or an African American sorority. After refusing to interview the African American applicants, Armiger discarded their resumes. Two of the applicants filed claims of race discrimination with the U.S. Equal Employment Opportunity Commission. The EEOC subsequently sued Target alleging that Target failed to hire individuals on the basis of their race and had destroyed records in violation of the one year record retention requirement for job applicants.

In [EEOC v. Target Corporation](#) (8/23/06) the U.S. Court of Appeals for the Seventh Circuit ruled that the EEOC may proceed to trial against Target. The court determined that a jury should decide whether Armiger knew the race of the applicants that he refused to interview. The court also determined that a jury should decide whether Armiger destroyed resumes in bad faith. According to the court, Target failed to offer evidence showing any legitimate nondiscriminatory reasons for rejecting the African American candidates for executive team leader jobs. [\[back\]](#)

Employee Unable to Work On-Site Not Entitled to ADA Protection

Michael Mulloy began working for Acushnet Company, a golf ball manufacturer, as an electrical engineer. His job responsibilities included designing and programming machines, troubleshooting when machines were out of order, leading investigations, and taking corrective actions after machine malfunctions. Within two years, Mulloy reported feeling dizzy and was later diagnosed with occupational asthma. Mulloy's physician recommended that he not be exposed to any of the respiratory irritants used to make Acushnet's golf balls. Acushnet transferred Mulloy to a different part of the building and restricted him from areas where the irritants were generated. Over one year later, Mulloy began to experience the same symptoms outside of the restricted areas and his physician recommended that he be transferred from all Acushnet buildings where the irritants were used. Mulloy requested that he be able to work from a remote location. Acushnet determined that Mulloy could not provide the necessary physical support for the machines and so terminated his employment.

Mulloy sued Acushnet, alleging that he was terminated because of a disability in violation of the Americans with Disability Act. In [Mulloy v. Acushnet Company](#) (8/24/06), the U.S. Court of Appeals for the First Circuit ruled that Mulloy's symptoms prohibited him from performing the essential functions of his job. The court stated that, while an employer is required to reasonably accommodate an employee, it is not required to redefine his job. The court also noted that the ADA does not require an employer to accommodate a disability by

reallocating the essential functions of one employee's job to make other workers' jobs more onerous. Finally, the court noted that, for some positions, working on-site was an essential function of the position. The court credited Acushnet's assessment that Mulloy's job functions could not be performed using a web camera, accessing the computers remotely, and conducting engineering work with engineers and technicians over the telephone. [\[back\]](#)

Court Prohibits Inquiry into Employee's Immigration Status in Title VII Case

Maria Torres began working for Perkins Restaurant as a cook. When she was hired, she completed the required I-9 form and submitted documentation showing that she was authorized to work in the United States. Soon after, she was transferred to a different Perkins restaurant where she alleged that her supervisor, Mariano Centeno, sexually harassed her by repeatedly asking her out on dates, calling her at home, and making other unwanted advances towards her. When she refused his entreaties, he increased her workload and cut her hours. Five months later, Torres complained to the restaurant's manager about Centeno's treatment of her. The manager investigated Torres' complaint. During the investigation, Torres told the manager that she had not come forward with her complaint earlier because she was afraid that Centeno would contact immigration officials and have her deported based on her immigration status. Perkins gave Torres a blank I-9 form and placed her on a leave of absence until she returned the completed form.

Torres filed a charge with the U.S. Equal Employment Opportunity Commission, which filed a lawsuit against Perkins alleging sexual harassment and retaliatory discharge of Torres in violation of Title VII. During litigation, Perkins inquired about Torres' immigration status. The EEOC objected. Perkins asked the court to order Torres to respond to its inquiries, including that Torres admit that she was not lawfully authorized to work in the U.S. In EEOC v. Restaurant Company d/b/a Perkins Restaurant (8/18/06), the U.S. District Court for Minnesota ruled that Perkins was not entitled to information about Torres' immigration status. The court ruled that her immigration status was not relevant to her claims. In the lawsuit, Torres was not seeking back pay, front pay, or reinstatement and, therefore, her immigration status had no bearing on any remedies. Also, to the extent that Perkins believed, in good faith, that it could not employ her because of her status, that assertion would be sufficient as a legitimate nondiscriminatory reason for its actions and, therefore, whether Torres in fact was lawfully authorized to work is not relevant to Perkins' belief. Finally, the court explained that permitting employers to use the discovery process to inquire into workers' immigration status would have "an unacceptable chilling effect on the bringing of civil rights actions." [\[back\]](#)

Second Circuit Reverses Earlier Decision Awarding \$5 Million to Older Workers for Discriminatory Layoff and Dismisses their Claims under the ADEA

Knolls Atomic Power Laboratory conducted an involuntary reduction in force. Knolls established criteria and ranked employees on a matrix. Managers then identified employees at the bottom of the ranking for possible layoff and performed an adverse impact analysis to determine whether the layoffs might affect a protected class of employees. To ensure compliance with the equal opportunity laws, a review board analyzed the selections and then Knolls' general manager and its general counsel each reviewed the final selections. As a result of this process, 245 of more than 2,000 employees were placed on the matrices, and 31 employees were selected for layoff.

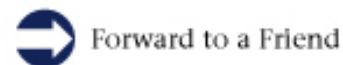
Of those 31 employees, 30 were over 40 years old.

The workers over the age of 40 sued Knolls under the Age Discrimination in Employment Act, claiming that they were chosen for layoff because of their age, and were awarded almost \$5,000,000 in damages and attorneys' fees. Knolls appealed to the U.S. Court of Appeals for the Second Circuit, which affirmed the award, and Knolls then appealed to the U.S. Supreme Court. The Supreme Court ordered that the Second Circuit reconsider its decision, explaining that an employer "is not liable under the ADEA so long as the challenged employment action, in relying on specific non-age factors, constitutes a reasonable means to the employer's legitimate goals." The Second Circuit previously had ruled that Knolls must show a "business necessity" for why the employees were laid off.

In [Meacham v. Knolls Atomic Power Laboratory](#) (8/14/06), the U.S. Court of Appeals for the Second Circuit, in a 2-1 vote, reversed its earlier decision, vacated the \$5 million judgment, and dismissed the former employees' claims against Knolls. The court ruled that Knolls had created a reasonable process for selecting candidates for layoff. The court rejected the employees' contention that the criteria were subjective. The court explained that subjective components of the process were appropriate because the managers knew the layoff criteria and were familiar with the employees subject to evaluation. The court also noted that the court is not "a super-personnel department," commenting that the "range of reasonable personnel systems is wide in a fluid and adaptive economy." The court also noted that Knolls' process included a review board and legal review by its general counsel. While the layoff criteria may have disproportionately impacted older employees, the employees did not satisfy their burden under the ADEA of showing that Knolls' businesses justification for its selection criteria was unreasonable. [\[back\]](#)

Massachusetts Passes Law Increasing Minimum Wage

Massachusetts minimum wage law will increase to \$7.50 per hour on January 1, 2007 and increase to \$8.00 per hour the following January 1, 2008. This increase ties California for the fourth highest minimum wage in the country, behind Washington (\$7.80 per hour), Oregon (\$7.67 per hour) and Connecticut (\$7.65 per hour). [\[back\]](#)



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