

Ol' Frank in the warehouse

- He's been a good employee
- But now he's up there in years
- Supervisor Arlene thinks he'd be better off behind a desk



Frank's no paper-pusher

- He asks to remain in his warehouse job
- But the boss says no...
- And it turns out Frank's lousy at a desk job
- He's fired, and he sues

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Frank wins his lawsuit

- Supervisor Arlene blundered
- She assumed that Frank was too old to do a physically tough job
- Sometimes older workers can't do the job anymore
 - But you must assess each case individually
 - You can't stereotype



You will learn

- The key concepts of age discrimination law
- 4 ways you're at risk of breaking the law
- A question that will help you stay legal

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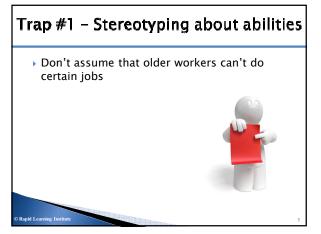
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The ADEA

- > Age Discrimination in Employment Act is the federal law
- Most states have their own laws, as well
- The ADEA says you must:
 Treat 40+ workers as well as younger employees
 - Treat them equally, no matter how far over 40 they are



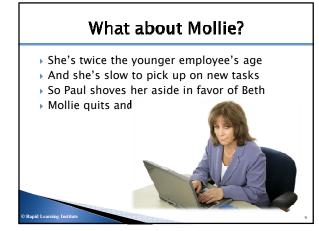




A rising star

Supervisor Paul tells 26-year-old Beth he prefers "aggressive young people"





An unfortunate remark

- Mollie's lawyer grills Beth
 She admits he praised
- "aggressive young people" It sounds to the judge like age bias
- The company faces an expensive trial

"enthusiastic"
"energetic"



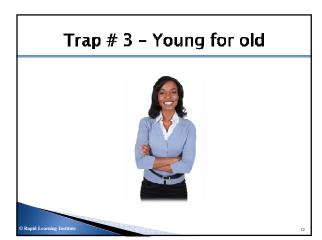
Based on Damon v. Fleming Supermarkets of FL

Trap #2 - Ageist comments
Don't make remarks about employees' age, or their youth
Some examples:

"fresh blood"
"been here too long"
"young, high-energy"
"slowed down"

Steer clear of 'code words'

"vibrant"



It's not always illegal

- There must be a strong job-related reason
- But age discrepancies will still raise a red flag
- So be able to justify your decision



<section-header> **Two 40+ workers**Example: You replace a 58-yearold with a 42-year-old This, too, may look like age discrimination Again, you must document a sound business reason How much of a difference looks suspicious? There's no ironclad rule But watch out if it's more than 5 years

Trap #4 - Unequal discipline

 Don't punish older employees more harshly than younger ones



Vivian's young guns - and George

- > 20-somethings Max and Adam mean well, but they get out of line a lot
- George, almost 60, is a bit of a crank



George goes off on Max

- He berates the younger man for misplacing tools
- Supervisor Vivian calls George out over his outburst



George is suspended

- Vivian gives him a week without pay to think things over
- 'He's old and crabby, and he deserves it,' she thinks
- Max gets off with a warning

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 But George doesn't take it lying down



Vivian's mistake

- She was harder on George than on his younger co-workers
- She let George's age and temperament get under her skin
- It looks like discrimination



A key question

- If you're taking personnel action involving an over-40, ask:
- 'Do I have a good business reason?'
- If you're not sure:
- Stop and think, and
 Consult HR



Summary

- Don't make assumptions about older workers' abilities
- Don't comment about employees' youth or age
- Have a strong business reason if you replace an older worker with a younger one
- Don't discipline older workers more severely

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