



**STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION**

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March 31, 2005

MEMORANDUM

TO: Commissioners

FROM: Robert E. Anderson
General Counsel

SUBJECT: Supplemental Report on Developments in the Counsel's Office Since February 24, 2005

Court Cases

In Smith v. City of Jackson, __ U.S. __ (2005), the United States Supreme Court concluded that personnel actions may violate the federal Age Discrimination in Employment Act if they have a disparate impact on employees over 40 years old even if they were not motivated by a discriminatory intent. However, the Court dismissed a Complaint alleging that the City of Jackson violated the ADEA when it adopted a pay plan that gave greater percentage raises (but not necessarily greater dollar amount raises) to officers with less seniority and lower rank positions. While this pay plan did have a disparate impact on younger employees, it was permissible because it was based on a "reasonable factor other than age." That factor was the City's goal of raising the salaries of employees in lower echelons to match those in surrounding communities so as to be better able to recruit and retain new employees.

REA:aat