

# LEGAL EAGLE EYE NEWSLETTER

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## Age Discrimination: Nurse Manager Was Looking To Promote “Young Rising Stars.”

All four nursing shift leaders at the hospital, all over forty, were informed by their nursing supervisor that their positions were being eliminated.

They were told they all had to re-apply for a newly created position with a newly defined job description if they wanted to stay.

A younger-than-forty nurse had already been told by the nursing supervisor that “big changes were happening.”

She told him to keep it a secret but it became common knowledge after he started bragging and sending texts to his coworkers that he was going to be their new shift leader on the night shift.

The displaced over-forty night shift leader did keep a job at the hospital, but in a position with less responsibility, less prestige and less pay, after the younger nurse was moved in in her place as a result of the reapplication process for the night shift leader position.

### Age Discrimination Case Validated

The US District Court for the Eastern District of Tennessee validated the displaced older nurse’s right to sue for age discrimination.

The nursing supervisor’s printed flyer and verbal remarks about favoritism for “young rising stars” were direct evidence of discriminatory intent.



***The nursing supervisor circulated a flyer in the hospital expressly stating that she was looking for “young rising stars” to promote to leadership positions.***

***The supervisor repeated the phrase “young rising stars” in a staff meeting with the persons present who would do the interviews and peer assessments of the candidates.***

UNITED STATES DISTRICT COURT  
TENNESSEE  
May 8, 2013

Direct evidence of a supervisor’s discriminatory intent is usually nowhere to be found in cases filed these days and most discrimination cases now have to be proven by the more difficult method of circumstantial evidence. But that was not the situation here.

### Revamped Job Description Was a Pretext For Discrimination

There was no legitimate argument that the nurse’s displacement was a result of actual revamping of the personnel structure, the Court believed.

The new position was essentially the same as her old position, except that things the shift leaders were already doing were written into the job description, which was really no change at all.

Couple with that the ample evidence that the new, younger shift leader was already preselected before the questionable reapplication process was announced.

The fact that the nurse kept a job at the hospital did not mean that she could not sue for age discrimination.

The fact she still had a job did soften the hospital’s financial exposure to the difference between her compensation in her old position and that in her new position. Punitive damages were ruled out of the question. ***Woody v. Covenant Health***, 2013 WL 1912610 (E.D. Tenn., May 8, 2013).

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