Until recently, the Equal Employment Opportunity Commission (EEOC) prohibited employers from reducing retiree health benefits when retirees become eligible for health benefits under Medicare. The EEOC viewed such a practice as unlawfully discriminating against retirees based on age, in violation of the Age Discrimination in Employment Act (ADEA).

This year, in General Dynamics Land Systems v. Cline, the United States Supreme Court considered whether the elimination of retiree health benefits for workers under age 50 violates the ADEA. General Dynamics and the United Auto Workers union had negotiated a collective bargaining agreement that eliminated the company’s obligation to provide health benefits to all future retirees, except current employees who were at least 50 years old. A group of employees who were at least 40 and therefore old enough to be protected under the ADEA, but under 50, so without a promise of retiree health benefits, objected to the new terms. These employees filed a charge with the EEOC, claiming that the agreement discriminated against workers under 50 based on their age. The EEOC agreed. The employees then sued for what the district court dubbed “reverse age discrimination.”

Rejecting the plain language of the ADEA, which broadly prohibits discrimination “because of [an] individual’s age,” the Court held that the ADEA does not prohibit discrimination that favors older workers over younger ones. Two judges dissented, arguing that the ADEA forbids all age based discrimination, including discrimination favoring older workers. They noted that the Civil Rights Act of 1964 was motivated by a desire to prevent invidious discrimination against racial minorities, especially blacks, but nevertheless extends to people of all races, including whites. Similarly, there is little doubt that Congress did not have male-on-male harassment in mind when it made sex discrimination unlawful. The majority rejected this comparison, reasoning that the term “race” is not commonly understood to mean only the black race, just as the term “sex” is not commonly understood to refer only to women. In contrast, the narrower reading afforded to the term age “makes perfect sense because of Congress’ demonstrated concern with distinctions that hurt older people.”

The EEOC subsequently announced plans to reverse its enforcement policy on retiree health benefits. The EEOC’s former position was that an employer’s reduction or elimination of retiree health benefits when the retirees become Medicare-eligible violates the ADEA. An employer could reduce or eliminate health benefits only if the benefits available to Medicare-eligible retirees were equivalent to the benefits provided to retirees generally or the employer spent the
same amount on health benefits for both groups of retirees. Recognizing that employers have no obligation to provide retiree health benefits and its enforcement policy actually discouraged employers from doing so, the EEOC announced that it will now permit employers to coordinate retiree health benefits with eligibility for Medicare or other comparable state health benefits programs.