


## Deja Vu: Google Settles Age Discrimination Lawsuit For \$11 Million

[Patricia Barnes](#) Contributor [Diversity & Inclusion](#)

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 Skeleton of Tyrannosaurus Rex inside the Googleplex headquarters in Mountain View, Calif.

Skeleton of Tyrannosaurus Rex inside the Googleplex headquarters in Mountain View, Calif.

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Almost a decade ago, courts sounded a clear warning bell that Google's culture was tainted by illegal and pervasive age discrimination.

Inexplicably, Google didn't listen.

And so the [Los Angeles Times](#) recently reported that Google has agreed to pay \$11 million to settle a federal lawsuit alleging Google engaged in a systemic practice of discriminating on the basis of age in hiring. Some 227 plaintiffs will collect an average of \$35,000 each.

Google actually agreed to settle the case in December but the final settlement agreement was presented to a federal judge on Friday.

The lawsuit was filed by Cheryl Fillekes, a software engineer who was interviewed by Google four times from 2007 to 2014, starting when she was 47, but was never hired.

The lawsuit alleged Google hired younger workers based on “cultural fit.”

According to the latest statistics, the median age of Google employees in 2017 was 30, a decade younger than the median age of U.S. workers.

Google claimed Fillekes didn’t demonstrate the technical aptitude required for the job but its defense took a major hit when a federal judge granted the plaintiff’s motion to make the case a collective action, which is similar to a class action. This broadened the litigation and substantially raised the stakes.

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### **Cultural fit**

This isn't the first time that Google's "culture" has become an issue in the federal courts or Google's first high profile settlement of an age discrimination lawsuit.

In 2010, Google settled a lawsuit filed by a one-time Silicon Valley superstar, Brian Reid, then 52, who was hired by Google in 2002 to serve as director of operations and director of engineering. Reid was transferred two years later to head up what was supposed to be new program to retain engineers. He was given no budget or staff and the program was quickly disbanded. Reid left Google in 2004 with a two-month severance package.

According to court documents, Reid received an excellent performance rating for his technical skills but was faulted for failing to fit into Google's culture. His supervisor, Wayne Rosing, wrote, "Right or wrong, Google is simply different: Younger contributors, inexperienced first line managers, and the super fast pace are just a few examples of the environment."

Rosing subsequently replaced Reid with two employees who were 15 and 20 years younger than Reid, respectively. Reid said he was given no reason for Rosing's action other than lack of "cultural fit."

The court documents quote one of Reid's successor's, Urs Hölzle, 38, a Swiss software engineer, as telling Reid his opinions were "obsolete" and "too old to matter" and that he was "slow," "fuzzy," "sluggish" and "lethargic." Other coworkers called him an "old

man," "old fuddy duddy" and joked that Reid's compact disc jewel case office placard should be an "LP" (long-playing record).

The amount of Reid's settlement was never disclosed.

## **Reluctance to Act**

On its web page, Google says its mission is to "organize the world's information and make it universally accessible and useful." But for some reason Google has failed as a company to organize and use the information that age discrimination is illegal.

Google in 2014 began publishing diversity statistics and vowed to hire more women, minorities, and LGBTQ workers. But Google didn't include diversity statistics for age in its diversity report, or even reference age. Incredibly, age remains invisible in Google's 2019 diversity report.

In the settlement of the Fillekes case, Alphabet Inc., Google's parent company, agreed to train employees and managers about age bias, to create a committee focused on age diversity in recruiting and to ensure that complaints are adequately investigated.

 [Patricia Barnes](#)

[Patricia Barnes](#)

I am an attorney, former judge, and recognized authority on age discrimination in employment. After experiencing age discrimination during the Great Recession, I be...