

**JOHN FEMIA v. CITY OF MERIDEN, AC 45866**  
*Judicial District of New Haven*

**Employment; Whether Trial Court Erred in Granting Summary Judgment for Defendant City on Plaintiff Police Officer's Age Discrimination Complaint.** The plaintiff was born in 1976 and has been a police officer with the defendant city of since 2001. He has held the rank of detective since 2012. In 2019, another detective, who was thirty-nine years old, was promoted to the position of detective sergeant over the plaintiff, who was forty-two years old. The plaintiff filed this age discrimination action against the defendant in 2020. He claimed in his complaint that all of the detectives who had been recently promoted to the rank of detective sergeant were under the age of forty years old at the time of promotion; that there was no legitimate non-discriminatory reason for him to not have been promoted, given that he finished first on multiple promotional examinations; and that, by not promoting him, the defendant had discriminated against him on the basis of age in violation of General Statutes §46a-60 (b) (1) of the Connecticut Fair Employment Practices Act (CFEPA). The defendant filed a motion for summary judgment, which is a filing where a party can request that the trial court enter judgment in its favor before trial if that party can show that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. The defendant argued that the plaintiff could not make a prima facie, or preliminary, case of age discrimination where he could not show that there was a significant age difference between him and the promoted detective and that the police officer who decided the promotion knew the candidates' ages. The defendant also argued that, even if the plaintiff could make out a prima facie case, he could not show that the defendant lacked a legitimate, non-pretextual reason for not promoting him. The trial court agreed and granted the defendant's motion for summary judgment. It set forth the elements for a prima facie case of discrimination and noted that the only one at issue was whether an adverse action had occurred under circumstances giving rise to an inference of discrimination. The trial court then observed that the United States Supreme Court had indicated in *O'Connor v. Consolidated Coin Caterers Corp.*, 517 U.S. 308, 312–13 (1996), with respect to an age discrimination claim brought under the federal counterpart to the CFEPA that an inference "cannot be drawn from the replacement of one worker with another worker insignificantly younger." The trial court cited the three-year age difference between the plaintiff and the promoted detective and rejected the plaintiff's arguments that he could nonetheless support his claim with evidence that the defendant had a history of promoting candidates under the age of forty to the rank of detective sergeant, that a supervisory employee had made an allegedly ageist remark about the plaintiff, and that the police officer who decided the promotion knew the plaintiff's age, given his access to the plaintiff's personnel file. The plaintiff appeals from the trial court's grant of summary judgment. The Appellate Court will decide whether the trial court improperly determined (1) that the defendant did not discriminate against the plaintiff in violation of the CFEPA on the basis of age, (2) that there was no genuine issue of material fact that the police officer who decided the promotion did not know the candidates' ages, and (3) that *O'Connor* applied to preclude the plaintiff's claim. The Appellate Court will also decide whether the trial court's judgment can be affirmed on the alternative ground that the defendant had legitimate, non-pretextual reasons for not promoting the plaintiff.