

## Supreme Court Gives “Thumbs-Up” to Cat’s Paw Claims

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In Staub v. Proctor Hospital, the United States Supreme Court recently endorsed the “cat’s paw” theory of employer liability. In the employment law context, the “cat’s paw” theory permits a finding of employer liability where the final decision maker relies on information supplied by biased subordinates — even if the decision maker has no personal animus against the employee. The decision is a stark reminder that upper-level decision makers must be vigilant in investigating and substantiating employment-related allegations prior to taking adverse employment actions.

### *Factual Background*

Due to his military obligations as an Army Reservist, Staub required a flexible work schedule that allowed him to attend drill and training. His immediate supervisors at Proctor Hospital resented his absences, characterizing his Reserve activities as “a bunch of smoking and joking and [a] waste of taxpayers’ money” and complaining that his coworkers had to “bend over backwards” to cover his absences.

Staub’s supervisor informed Human Resources that Staub had twice violated hospital policy by being away from his desk. The Vice President of Human Resources relied on the supervisor’s accusations and, after

reviewing Staub’s personnel file, terminated his employment.

Staub disputed the allegations against him, and alleged that his termination was motivated by hostility to his obligations as an Army Reservist and was therefore illegal under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). He did not claim that the Vice President was hostile to his military service, but rather that his immediate supervisors influenced the Vice President’s decision. A jury initially found in Staub’s favor. However, the Seventh Circuit Court of Appeals reversed, finding that Proctor Hospital should not be liable under the “cat’s paw” theory because Staub’s immediate supervisor had not exercised “singular influence” over the Vice President’s decision to terminate Staub, and because the Vice President had conducted her own limited investigation into the matter.

### *The Supreme Court’s Analysis*

The Supreme Court reversed, establishing that an employer can be liable for a discriminatory decision if: (1) the supervisor commits an act that is motivated by discriminatory animus; (2) the discriminating supervisor intends to cause an adverse employment action; and (3) the discriminatory act is a “proximate

cause” of the final employment action. Applying the test to the facts at hand, the Court determined that a reasonable jury could have found that Staub’s immediate supervisors held discriminatory animus toward him and intended that he be terminated, and that the supervisor’s hostility was a causal factor in Vice President’s decision.

Notably, the Court rejected Proctor Hospital’s argument that it should not be liable because the decision maker performed her own investigation, reasoning that the hostile supervisors’ recommendations were nevertheless a “motivating factor” in the final outcome.

### ***Implications for Employers***

As noted by the Court, USERRA’s “motivating factor” language is very

similar to that of Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex, or national origin. Accordingly, it is likely that the “cat’s paw” analysis formulated by the Supreme Court is not limited to USERRA, and may apply to cases involving other types of discrimination claims.

The Staub decision underscores the importance of ensuring that decision makers thoroughly review the facts of potentially sensitive cases before relying on information from potentially biased subordinates.

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