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Illinois Supreme Court Expands Strict Liability for Sexual Harassment: Employers Are Strictly Liable for Any Supervisor's Harassment Under Illinois Human Rights Act

On April 16, 2009, the Illinois Supreme Court held, in a 4-2 decision (one justice abstaining), that employers in Illinois are strictly liable for sexual harassment committed by a supervisor even when that supervisor does not have authority over the harassed employee. Sangamon County Sheriff's Department v. State of Illinois Human Rights Commission, No. 105518, 2009 Ill. LEXIS 378 (Ill. S. Ct. April 16, 2009). The ruling expands the breadth of strict liability under the Illinois Human Rights Act ("IHRA"), which Illinois courts had previously interpreted as "imposing strict liability on an employer for the sexual harassment of an employee by the employee's *direct* supervisor." Id. at *12 (emphasis added).

The Illinois Supreme Court ruled that under the plain meaning of the IHRA, an employer is liable for sexual harassment committed by its supervisory employees even where the supervisor had no authority to affect the terms and conditions of the alleged victim's employment. In so holding, the Court stated that it would not review the dictionary definition of "supervisor," or follow federal law interpreting Title VII.

Justices Karmeier and Garman strongly dissented from the majority opinion, emphasizing there was no indication the General Assembly desired to make Illinois law far more expansive than federal law. The dissent stated:

"[B]y adopting the construction it does, the majority not only goes beyond the principles governing sexual harassment claims under federal law, it imposes a standard of liability which appears to be without precedent in any jurisdiction of the United States." Id. at *27.

Our Client Alert of March, 2009, at www.socw.com, provides further details on the specific facts and issues presented in this case, and previewed the importance of this anticipated ruling from the Illinois Supreme Court.

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