

Supreme Court Endorses Narrow Definition Of “Supervisor” In Discrimination Claims

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Supreme Court

On Monday, June 24, 2013, the Supreme Court provided clarity for lower courts and employers when it ruled that an employer may be vicariously liable for a supervisory employee’s harassment (to the extent that it did not culminate in a tangible adverse employment action) only when the employer has empowered the employee to take tangible employment actions against the alleged victim of the harassment. And in the process, the Court soundly rejected the EEOC’s enforcement guidance as “nebulous” and unpersuasive.

While the ruling in [Vance v. Ball State Univ., 570 U.S. ____ \(June 24, 2013\)](#) (“Vance”) is helpful for employers who face the day-to-day task of preventing and correcting workplace harassment, employers also must continue to ensure that they not only have policies in place but that they are vigilant in training and enforcement with respect to non-discrimination and anti-harassment policies. Moreover, because strict liability still attaches for unlawful harassment tied to a tangible employment action, and because some states (notably Illinois), do not follow the same definition of supervisor as the definition laid out so clearly in *Vance*, employers should remember that prevention remains a key component for ensuring a non-discriminatory workplace.

For more information on *Vance*, check out Barnes & Thornburg’s latest Labor & Employment Law Alert on the subject - "[A Good Day for Employers: Supreme Court Issues Two Favorable Decisions.](#)"

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