

Connecticut Supreme Court Adopts Federal Definition of ‘Supervisor’ for State Law Hostile Work Environment Claims

Article By:

John G. Stretton

A “supervisor,” for purposes of a Connecticut state hostile work environment claim, is an employee who is empowered by an employer to take tangible employment actions, the Connecticut Supreme Court recently held in *O’Reggio v. Commission on Human Rights and Opportunities*, a decision that follows federal standards set forth in Title VII of the Civil Rights Act of 1964 and jurisprudence of the Supreme Court of the United States.

Quick Hits

- In *O’Reggio v. Commission on Human Rights and Opportunities*, the Connecticut Supreme Court held that a “supervisor,” for purposes of a state hostile work environment claim, is an employee who is empowered by an employer to take tangible employment actions.
- Tangible employment actions effect a significant change in employment status that may include hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits.

Background

Tenisha O’Reggio, a Black employee in the Connecticut Department of Labor’s (CTDOL) unemployment unit, reported that her white supervisor, Diane Krevolin, had made several racially discriminatory comments toward her. Krevolin was placed on paid administrative leave while human resources personnel and the CTDOL’s equal employment opportunity manager conducted separate internal investigations. Both investigations substantiated O’Reggio’s claims. As a result, Krevolin was issued a one-day unpaid suspension and required to attend diversity training.

Following the investigation, O’Reggio requested that she be allowed to report to a different supervisor or sit in an area away from Krevolin. Both requests were denied. Because she felt that she could not continue reporting to Krevolin, O’Reggio took a one-year durational position in another division of the department. By the time she returned to her original position, Krevolin had retired.

While the internal investigations were ongoing, O’Reggio filed a complaint with the Connecticut Commission on Human Rights and Opportunities (CHRO). She alleged that she was subjected to a hostile work environment, in violation of Conn. Gen. Stat. §§ 46a-60(a)(1), 46a-58(a) and 46a-70. The

CHRO found that although Krevolin had created a hostile work environment, O'Reggio's department had acted promptly and reasonably to remedy the situation and was therefore not vicariously liable for Krevolin's actions. O'Reggio administratively appealed the CHRO's decision to the Connecticut Superior Court and Connecticut Appellate Court, which both affirmed the judgment, and, ultimately, to the Connecticut Supreme Court.

The Federal Standard

Under Title VII of the Civil Rights Act of 1964, an employer may be held vicariously liable for its employee's creation of a hostile work environment. The Supreme Court of the United States, in *Burlington Industries, Inc. v. Ellerth*, held that an "employer is subject to vicarious liability to a victimized employee for an actionable hostile environment created by a supervisor with immediate (or successively higher) authority over the employee."

In *Vance v. Ball State University*, the Supreme Court clarified the definition of a "supervisor." To be deemed a supervisor, the employee must be "empowered by the employer to take tangible employment actions against the victim." Tangible employment actions are ones that "effect a 'significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits.'" In addition, if the employer empowers a coworker to take tangible employment actions, subject to approval by a higher manager, that individual may also qualify as a supervisor. Employees whose authority simply extends to directing the daily activities of others, including scheduling, training, and conducting performance reviews, are not deemed to be supervisors.

The Connecticut Supreme Court's Decision

In a 4–3 decision authored by Justice Joan K. Alexander, the Connecticut Supreme Court held that Connecticut courts should apply the *Vance* definition of "supervisor" in evaluating hostile work environment claims. The decision is consistent with the court's previous decisions, which state that the Connecticut Legislature's intent was to make the Connecticut Fair Employment Practices Act (CFEPA) analogous with the provisions of Title VII. Moreover, the court found that the *Vance* decision allowed courts to readily determine which employees were supervisors by simply turning to written documentation in official company records, rather than engaging in highly specific fact-based investigations. While acknowledging the reality that a regular coworker is capable of creating a hostile work environment, the court concluded that the harasser needed to have the power to take tangible employment actions to impose vicarious liability on the employer.

The [dissent](#) argued that the decision was an unduly narrow interpretation that undermined the CFEPA's remedial nature. The majority responded by stating that there was no evidence that the legislature had intended to advance a broader definition of a supervisor, and it would not depart from federal precedent in the absence of such evidence.

Key Takeaways

While the *O'Reggio* decision certainly clarifies the definition of "supervisor" under state law, an employer may still be held liable for the discriminatory actions of a coworker, as opposed to a supervisor, if the employer is negligent in failing to prevent the coworker's harassment of the victim. Such negligence could take the form of failing to monitor the workplace, failing to respond to complaints, or creating an environment where complaints are discouraged.

Employers in Connecticut may want to review their organizational charts to ensure that they have clearly defined their employees' authority with respect to initiating tangible employment actions. Employers may also want to continue to monitor their workplaces to ensure that all reports of a hostile work environment are adequately investigated and treated with seriousness.

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