

EMPLOYMENT LAW DEVELOPMENTS

NEWS FLASH

THE MICHIGAN COURT OF APPEALS RULES THAT SUPERVISORS CANNOT BE HELD INDIVIDUALLY LIABLE UNDER MICHIGAN'S CIVIL RIGHTS ACT

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In *Jager v. Nationwide Truck Brokers, Inc.*, the Michigan Court of Appeals recently ruled that supervisors cannot be held individually liable for violating a plaintiff's civil rights under Michigan's Elliot-Larsen Civil Rights Act (the "CRA"). In so holding, the court conformed Michigan law to the overwhelming number of cases addressing the issue under federal anti-discrimination laws, including Title VII.

In *Jager*, the plaintiff sued both her former employer and her former supervisor, alleging that she was constructively discharged because her supervisor subjected her to quid pro quo sexual harassment and a sexually hostile environment in violation of the CRA. The trial court dismissed plaintiff's claims against the employer and held that her supervisor could not be held individually liable under the CRA.

The Michigan Court of Appeals affirmed the trial court's dismissal of the case against the employer and, in a

victory for employers and supervisors, specifically stated that supervisors cannot be held individually liable under the CRA. The court wrote:

The CRA envisions, in our opinion, employer liability for the acts of its employees who have the authority to act on the employer's behalf rather than individual liability for civil rights violations. Further, had our Legislature intended individual, rather than employer, liability under the CRA, it could have expressly stated so. Thus, we conclude that the CRA provides solely for employer liability, and a supervisor engaging in activity prohibited by the CRA may not be held individually liable for violating a plaintiff's civil rights.

The court reasoned that its previous ruling, which allowed individual supervisory liability, was not controlling

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since it relied on federal case law that was later implicitly overruled. The court also dismissed the reasoning of the previous ruling as “unpersuasive” and instead concentrated on the “plain meaning” of the CRA.

Despite the good news that supervisors cannot be held individually liable under the CRA, the court specifically noted that supervisors can be held individually liable to plaintiffs under traditional tort theories. Supervisors must be aware that, although they cannot be held individually liable for violating a plaintiff’s civil rights, they may be held individually liable for engaging in any conduct such as assault, battery, or intentional infliction of emotional distress.

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Thursday, October 10, 2002

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