

Supervisor's Personal Liability for Harassment

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A recent case filed in the Waterbury superior court, [Denault v. Community Mental Health Affiliates, et al](#), alleging an unfortunately familiar pattern of sexual harassment in violation of the Connecticut Fair Employment Practices Act, named both the company and the harassing supervisor as defendants, and alleged that the individual supervisor had personal liability for his actions. But the court granted a preliminary motion dismissing the personal claims against the supervisor, reiterating earlier decisions by other judges that Connecticut's anti-discrimination statute does not impose personal liability on the individual accused of harassment.

According to the complaint, the supervisor engaged in a pervasive array of harassing behavior: inviting the plaintiff to spend non-work time with him, making derogatory comments about women of color, commenting on which female employees he considered attractive and would like to see in a bikini, suggesting to a female employee who received flowers at work that "you must sleep around a lot," making frequent comments about women's breasts, and urging the plaintiff to have a personal relationship with him. After complaints to senior management were unavailing, the plaintiff resigned and filed suit, claiming a hostile work environment due to sexual harassment, and constructive discharge.

The trial court agreed with the supervisor's motion to be dismissed from the case as an individual defendant. The court ruled that the Connecticut statute did not create individual liability. (Title VII, the analogous federal anti-discrimination law, does not create individual liability either.) There is another section of the Connecticut statute which imposes liability on any person who aids or abets a discriminatory employment practice, but the court held that this provision did not support a claim against the supervisor either. Since the allegations against the company were based on the supervisor's actions, making him the alleged perpetrator of the discrimination, he could not aid and abet himself.

The Fair Employment Practices Act recognizes that businesses have the ability to control the actions of their supervisors, and must therefore be liable if a supervisor abuses his authority and harms an employee, for which the legal term is vicarious liability. But since vicarious liability allows a victimized employee to sue for damages, there is no need to impose a duplicate liability on the supervisor personally.

But note that the plaintiff did not raise potential claims for individual liability other than the Fair Employment Practices Act. An employee confronting similar egregious conduct might be able to recover damages directly from the harasser on common law tort claims such as infliction of emotional distress.

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