

U.S. Supreme Court Decision Clarifies “Cat’s Paw” Theory of Liability

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written by [Jamie L. Matthews](#), [Robert A. Fisher](#)

Last week, the U.S. Supreme Court held in a unanimous decision that an Army reservist who had been terminated from his civilian job as a hospital technician could bring a claim under the Uniformed Services Employment and Reemployment Rights Act (USERRA) based on evidence that the individual who terminated him, an unbiased human resources manager, relied in part upon discipline issued by the employee’s two immediate supervisors, who were motivated by hostility toward the employee’s military obligations. This situation, where an employee seeks to hold an employer liable for the animus of a supervisor who is not the ultimate decision-maker, is commonly referred to as a “cat’s paw” case.

In *Staub v. Proctor Hospital*, the employee, Vincent Staub, offered evidence showing that his immediate supervisors made derogatory comments about his military service and fabricated allegations that led to disciplinary action against him. Specifically, one supervisor issued Staub a corrective action for violating a rule requiring him to stay in his work area when he was not working with a patient. The corrective action directed Staub to inform one of his supervisors when he had no patients and wanted to leave his work area. Several months later, Staub’s other supervisor informed the Vice President of Human Resources, Linda Buck, that Staub had violated the corrective action directive by leaving his desk without informing anyone. After reviewing Staub’s personnel file, Buck decided to terminate Staub. The termination notice stated that Staub had ignored the directive in the corrective action. Staub challenged his termination through the hospital’s grievance process, claiming that the allegations underlying the corrective action had been fabricated out of hostility toward his military obligations. Buck decided to uphold the termination after discussing the matter with another personnel officer.

Staub sued the hospital, claiming that his termination was motivated by hostility toward his obligations as a military reservist. He argued that the initial corrective action was not justified because no such work rule existed and, as to his purported violation of it, he stated that he had notified his supervisor in a voicemail message that he was leaving his desk. Although Staub did not assert that Buck, the ultimate decision-maker, harbored any anti-military animus, he contended that her decision relied upon the tainted actions of his two immediate supervisors. A jury found that Staub’s military status was a “motivating factor” in the hospital’s decision to terminate him and awarded damages. The Seventh Circuit reversed, holding that because Buck had not relied solely on the advice of the two supervisors, but had also considered Staub’s personnel file and a co-worker’s complaint about his unavailability, the hospital was not liable and was entitled to judgment as a matter of law.

The U.S. Supreme Court disagreed. It held that where the decision-maker is unbiased, an employer will nonetheless be liable under USERRA if three conditions are met: (1) a supervisor performs an act motivated by anti-military animus; (2) the act is intended by the supervisor to cause an adverse employment action; and (3) the act is a proximate cause of the ultimate employment action. The Court explained that "proximate cause" requires only some direct, non-remote link between the discriminatory conduct and the adverse employment action. Although the Court rejected the suggestion that a decision-maker's independent investigation (and rejection) of an employee's claim of discrimination would shield an employer from liability, it stated that if the employer's investigation uncovered a separate, unrelated justification for the adverse action, the employer would not be held liable.

While this decision is focused on USERRA, we assume that the Court's analysis in *Staub* will be applied to claims under other federal anti-discrimination statutes where liability is premised on the discriminatory animus of someone other than the ultimate decision-maker. Employers should be aware that they must carefully consider the source of the information they are relying upon before making any adverse employment decisions. Where an underlying complaint or disciplinary process has been tainted by discriminatory animus, a decision-maker's good faith belief that there is a legitimate basis for the adverse action will not shield an employer from liability.