

## Employment Blog-Discrimination

The U.S. Supreme Court in *Straub v. Proctor Hospital* has held that an employer may be held liable for the discriminatory motives of a supervisor who influences, but does not make the ultimate decision leading to an adverse employment action. Known as the "cat's paw" theory from the 17th century fable of "The Monkey and The Cat", the Court's decision clarifies the standard by which an employer is liable when a supervisor with discriminatory animus provides input which may have effected the adverse employment action. For example, if a poor performance appraisal written by a biased supervisor is taken into account by a member of the human resources department among many other issues in a decision to terminate an employee, the employer may be held liable for discrimination, even though the member of the human resources department was unbiased and unaware of the discriminatory animus underlying the performance appraisal. If the employer conducts an independent investigation which results in an adverse action for reasons unrelated to the supervisor's original biased action, the employer will not be held liable. The biases of individuals who make, cause or influence an adverse employment decision are fair game when determining employer liability.