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LABOR & EMPLOYMENT LAW ALERT

U.S. Supreme Court Rules: Employee is a Supervisor Under Title VII If Empowered By Employer to Take Tangible Employment Actions

On June 24, 2013, a divided United States Supreme Court issued a favorable ruling for employers, holding that an employee is a “supervisor” for purposes of vicarious liability under Title VII only if he or she is empowered to take tangible employment actions against the alleged victim. *Vance v. Ball State University*, 133 S.Ct. 2434 (2013). The Court explained that to be a supervisor, a person must have the ability “to 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 so ruling, the Court resolved a split among the Circuit courts with respect to “supervisor” liability and rejected the open-ended approach advocated by the EEOC’s Enforcement Guidance, which ties supervisor status to “the ability to exercise significant discretion over another’s daily work.”

This decision is significant for employers and, like a second Supreme Court decision issued the same day, *University of Texas Southwestern Medical Center v. Nassar*, benefits employers from a liability standpoint. An employer may be held strictly liable under Title VII for discrimination resulting in a tangible employment action by an employee who is a “supervisor.” If it is a co-worker who discriminates, however, the employer may be held liable only if the victim complains to her employer and the employer is negligent in responding to the complaint. The Supreme Court’s decision in *Vance*, which narrowed the definition of “supervisor” for purposes of vicarious liability, should lead to employers winning more cases on summary judgment unless Congress acts to overrule the Court’s decision.

If you have any questions about the information contained within this alert, please contact any of the following Hancock Estabrook, LLP Labor & Employment attorneys:

Michael J. Sciotti
John T. McCann
John F. Corcoran

msciotti@hancocklaw.com
jmccann@hancocklaw.com
jcorcoran@hancocklaw.com

Lindsey H. Hazelton
Melinda Burdick Bowe
Robert C. Whitaker, Jr.
Robert J. Thorpe

lhazelton@hancocklaw.com
mbowe@hancocklaw.com
rwhitaker@hancocklaw.com
rthorpe@hancocklaw.com

Or visit our Hancock Estabrook Labor & Employment Practice webpage [here](#).

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