



# Supreme Court and “Cat’s Paw” Discrimination Under USERRA

June 30, 2011

## *Staub v. Proctor Hospital, 131 S. Ct. 1186 (U.S. 2011)*

On March 1, 2011, the U.S. Supreme Court considered a cat’s paw case brought under the Uniformed Services Employment and Reemployment Rights Act (“USERRA”). In a “cat’s paw case” an employee seeks to hold his or her employer liable for the animus of a supervisor who was not charged with making the ultimate employment decision. Plaintiff sued under USERRA, which prohibits discrimination against an employee “who is a member of ... or has an obligation to perform service in a uniformed service.”

The Plaintiff, Staub, was a member of the Army Reserves. Two of Staub’s supervisors at Proctor Hospital made complaints regarding Staub’s violations of company policies and rules. After the second complaint, Proctor’s vice president of human resources reviewed Staub’s personnel file and terminated Staub. Subsequently, Staub sued Proctor under the USERRA, claiming that his discharge was motivated by hostility toward his obligation as a military reservist. The jury found in Staub’s favor and the Seventh Circuit reversed the verdict.

When deciding this issue, Justice Scalia, speaking for the Court, relied on long-established principles of tort and agency law, stating “it is axiomatic ... that the exercise of judgment by the decisionmaker does not prevent the earlier agent’s action (and hence the earlier agent’s discriminatory animus) from being the proximate cause of the harm.” Consequently, the Court held: “if a supervisor performs an act motivated by anti-military animus that is intended by the supervisor to cause an adverse employment action, and if that act is the proximate cause of the ultimate employment action, then the employer is liable under USERRA.”

Applying this holding to the facts, the Court found an ample amount of evidence in which a jury could have concluded that Staub’s immediate supervisors were motivated by their anti-military animus and that their actions were causal factors underlying Proctor’s vice president of human resources’ decision to terminate Staub.

*A special thanks to Sean Gajewski for helping with this post. Sean is a third-year law student at Hofstra University School of Law. You can reach him by email at [srgajewski \[at\] gmail dot com](mailto:srgajewski@gmail.com). Bio: [www.sgajewski.com](http://www.sgajewski.com).*