

LEGAL UPDATES

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Service

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## Illinois Supreme Court Extends Strict Liability Standard to Sexual Harassment by Any Supervisor

On April 16, 2009, the Illinois Supreme Court issued an opinion which creates strict liability for employers under the Illinois Human Rights Act (IHRA), where a supervisor's conduct amounts to sexual harassment, even if the supervisor does not directly supervise the employee. *Sangamon County Sheriff's Department v. The Illinois Human Rights Commission*, Docket Nos. 105517 and 105518.

Prior to this decision, a supervisor who had no direct control over the employee alleging sexual harassment was viewed as a non-supervisory employee, for purposes of liability under the IHRA. An employer could then be found liable only if he/she had knowledge of the conduct and failed to take reasonable measures to correct the conduct. However, the *Sangamon County Sheriff's Department* decision clarifies the Illinois Supreme Court's interpretation of the IHRA that strict liability for the employer extends to **any** supervisor who is found to be responsible for sexual harassment. As of now, the IHRA does not limit liability on an employer based upon the relationship of the alleged harassing supervisor to the victim.

### What This Means To You

This interpretation of strict liability is a change in the previous general reading of the IHRA. With this change, employers should reemphasize their policy of a harassment-free environment, and periodically communicate to **all** employees the company's zero-tolerance policy for sexual harassment. Prompt investigation of all sexual harassment complaints, followed by timely remedial measures, where appropriate, will limit an employer's damages (if not liability) in all but the most egregious circumstances, even under a strict liability standard.

## Contact Info

If you have any questions, please contact your Husch Blackwell Sanders attorney.

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