

LOCAL EVERYWHERE


Individual Liability in Employment Law: Aiders, Abettors, Decisionmakers and HR Professionals Beware!

ACBA Employment Law Symposium
November 9, 2023





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Presented By



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Individual Liability Under Federal and State Employment Laws

- Many federal and state laws hold individual employees civilly and/or criminally liable for employment violations
- Where an individual employee is sued as an individual defendant in an employment lawsuit, both the plaintiff and the defendant employer faces an additional layer of complicated analytic and strategic issues
- Therefore, it is important to understand which claims may be asserted against individual employees and what obligations such claims may impose on an employer

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Hypotheticals

- PHRA – Individual Law Partner Decisionmakers
- Section 1981 – Co-Worker/Harasser and Manager
- Intentional Torts – Supervisor/Harasser
- Section 1983 – Public Officials

Detailed descriptions of these hypotheticals are contained in the materials

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Individual Liability Under Federal Anti-Discrimination Laws

- There is no individual liability under most federal anti-discrimination statutes. This includes:
 - Title VII of the Civil Rights Act of 1964
 - Age Discrimination in Employment Act
 - Americans with Disabilities Act

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Other Federal Statutes Do Provide Individual Liability

- 42 U.S.C. § 1981
- 42 U.S.C. § 1983
- Fair Labor Standards Act
- Family and Medical Leave Act
- USERRA
- Sarbanes-Oxley Act

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Individual Liability Under State and Local Law

- Pennsylvania Human Relations Act
- Pennsylvania Wage Payment and Collection Law
- Pennsylvania Minimum Wage Act
- City of Pittsburgh Code
- Allegheny County Ordinance
- Common Law Tort Liability

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Strategic Considerations for Plaintiffs

- Additional pressure applied on all Defendants
- Expanding theories of recovery/liability
- Creating additional work – return of investment
- Collectability of judgment

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Strategic Considerations for Defendants

- Joint Representation or Separate Counsel
 - Related ethical considerations
- Early motions practice to simplify the case
- Strategic considerations impacting defenses asserted
- Impact on discovery and trial

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Case Management Issues

- Case management with multiple defendants/counsel
- Mediation
 - role and obligations of individual defendants
 - settlement complications
- Discovery limits and other discovery issues
- Dispositive motions
- Trial

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Questions?

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Thank You

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