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For Immediate Release

California Supreme Court Alters How Bias Cases Will be Handled

Sacramento, CA, February 11, 2013 - Even if discrimination plays a role in a worker's firing, an employer will not be liable for back pay or other compensation if the employee would have been fired anyway for poor performance, the California Supreme Court ruled on February 7. The opinion, *Harris v. City of Santa Monica*, is likely to change the way most discrimination cases are handled in California, lawyers in the case said.

In the past, employees could receive compensation, including back pay and damages, and win reinstatement if they could prove that discrimination was "a motivating factor" in a firing. Now, employees will have to show that bias was a substantial motive, and the employer will then get the chance to argue that performance alone would have resulted in the worker's termination.

The ruling was not a complete victory for employers, however. The court said employers would still have to pay a litigant's attorney fees if a jury finds that illegal bias was involved. A judge also would have the option of issuing an injunction ordering the company to end discrimination.

The decision overturned a jury award to a Santa Monica bus driver who was fired after revealing she was pregnant. The city's bus service insisted that she would have been fired regardless of her pregnancy because she had two accidents and failed twice to report to work on schedule.

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