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CLIENT ALERT - SUPREME COURT STRIKES DOWN HEIGHTENED STANDARD IN REVERSE DISCRIMINATION CASE

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On June 5, 2024, the United States Supreme Court delivered a pivotal ruling in Ames v. Ohio Department of Youth Services, striking down the heightened standard of proof required for reverse discrimination cases in the Sixth Circuit. The Court found that majority-group plaintiffs (for example, heterosexual individuals, such as the plaintiff in this case) do not need to meet the more demanding standard of "background circumstances" to prove discrimination.

This case involves a heterosexual woman, Marlean Ames, who was employed by the Ohio Department of Youth Services. After applying for a promotion, which was denied, the Department offered Ms. Ames what amounted to a demotion with less pay. Ms. Ames accepted that role. Some time later, the Department hired a gay man to fill her prior role, and it promoted a gay woman to the position for which Ms. Ames had applied. Ms. Ames filed suit, alleging discrimination based on sex and sexual orientation under Title VII.

The Ohio District Court found in favor of the Department because Ms. Ames failed to show any "background circumstances," which is an additional step that requires majority-group plaintiffs in discrimination cases to produce certain types of evidence not required of minority-group plaintiffs.

The Sixth Circuit Court of Appeals affirmed the district court's ruling based on Ms. Ames' failure to produce any background circumstances. Ms. Ames appealed to the Supreme Court.

In its unanimous decision, the Supreme Court rejected the background circumstances rule, expressing that it "cannot be squared with the text of Title VII or our longstanding precedents." It opined that Title VII does not distinguish whether a plaintiff is a member of a majority-group, and that the text of the law establishes "the same protections for every individual—without regard to that individual's membership in a minority or majority group."

The Court's decision is aligned with the U.S. Equal Opportunity Commission's guidance on diversity, equity, and inclusion programs in the workplace, which rejected the background circumstances rule in March 2025. It will now be easier for employees who are members of majority groups to pursue and prevail in discrimination claims. Claims of harassment and discrimination made by majority group employees should be investigated and taken as seriously as those claims brought by members of minority groups. Employers, therefore, should take note of the Ames case (and the EEOC's guidance) and regularly review their policies and practices to ensure they apply equally and protect all employees in the workplace.

If you have questions about how this decision or the EEOC's updated DEI guidance may impact your workplace policies or investigations, please contact Lenny Samuels or any other attorney on Berger Singerman's Labor & Employment practice.

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