

# The Cat Fights Back: Seventh Circuit Discusses Cat's Paw Theory Post-Staub

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In 2011, the United States Supreme Court made the “cat’s paw” theory of liability significantly easier for employees to prove. An employee can establish a cat’s paw theory of liability in an employment discrimination suit when a biased person who lacks the ability to make employment decisions dupes the official decision-maker into committing a discriminatory employment action. The Supreme Court, in *Staub v. Proctor Hospital*, made it significantly easier for an employee to prove a cat’s paw case when it held that a plaintiff need only show “proximate cause” between the biased person and the final decision. Since then, lower courts have been [pouncing on the chance to interpret ambiguities](#) that the Supreme Court left open; last week, the 7th Circuit threw their hat in the ring.

## The Seventh Circuit’s Cat

John Woods and his co-worker Ronald Hamilton, both firefighters, had a conversation about a job posting at the fire department. They fundamentally disagree over what was said. Woods claims Hamilton told him how much he did not want the position. Hamilton, on the other hand, reported that Woods had stated that “at one time he wanted to kill somebody, all of them” and that Woods had mentioned “something on the lines of hurting himself.” The Fire Chief, Denis O’Halloran, got wind of Woods’ alleged statements and ordered four officers to conduct a well-being check (they found him in good spirits). He also ordered a psychologist report (it found Woods not at risk of hurting himself), and — most significantly — recommended that the Board of Fire and Police Commissioners terminate Woods’ employment, which they did, after conducting an independent investigation.

Woods filed suit, claiming that Chief O’Halloran had a discriminatory animus against him, and that his animus had influenced the Board’s decision to terminate him. Woods appealed to the district court, was dismissed on all counts through summary judgment, and appealed to the 7th Circuit, resulting in the court’s decision in [Woods v. City of Berwyn](#).

## The Board Was Not an “Unwitting Dupe”

The 7th Circuit determined whether the cat’s paw theory of liability applied to Woods’ case, first applauding itself for being the first court to use the quirky phrase “cat’s paw” in 1990 and recounting the reference to [Aesop’s](#)

**Fables.** The court ultimately held that the Board’s formal procedures and the evidence it relied on effectively broke the chain of causation between Chief O’Halloran’s alleged bias and Woods’ termination. A formal hearing process alone does not break the chain, the court ruled, but if the formal procedures result in an adverse action for reasons *unrelated* to the supervisor’s biased report, then the employer will not be liable.

The court also addressed Woods’ argument that the Board merely “rubber-stamped” O’Halloran’s recommendation to fire him. Woods argued that the Board previously agreed with many of O’Halloran’s recommendations. The court, however, held that the Fire Department’s Board was not an “unwitting dupe” — as was the cat in Aesop’s Fable — because the Board did not rely on O’Halloran’s report to reach its decision. In other words, the Board had the ultimate power to fire Woods, regardless of any of O’Halloran’s statements; since the Board found that Woods made the violent statements and the Board was not subject to O’Halloran’s control, Woods could not establish a cat’s paw theory of liability. From there, Woods’ case fell apart and was dismissed.

### **The Cat’s Advice**

Employers should be aware of the importance of not only independently reviewing an employment decision, but also doing so without relying on conclusions made in a potentially-biased supervisor’s report. Best practice, therefore, is to accept supervisor’s statements with a grain of salt — “trust but verify.” Ultimately, it’s easier for employees to establish liability through the cat’s paw theory than it was even just a few years ago, and employers, therefore, should make sure that their formal processes are truly impartial.

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