

Groundbreaking ruling handed down in sex harassment and retaliation case

Judge names ADP TotalSource Inc. staffing firm as co-employer in an ongoing lawsuit that's headed to trial

LOS ANGELES, CALIF., USA, December 15, 2021 /EINPresswire.com/ -- A Miami, Florida, company providing human-resource services can be considered a co-employer, according to a ruling handed down by a Los Angeles Superior Court judge in a workplace sexual harassment lawsuit.



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*V. James DeSimone,
employment attorney*

In a cutting-edge decision, Judge Maureen Duffy-Lewis determined that at all relevant times, ADP TotalSource Inc. was the employer, manager, corporate agent and supervisor of the plaintiff and her coworkers at their place of business, Premier Printing and Mailing Inc. of Paramount, California. The Dec. 8 decision paves the way for a rare, if not precedent-setting, verdict in the upcoming

trial: holding a staffing agency liable in this co-employer relationship.

“The case has important ramifications for employment law because the trial judge is stating that we presented facts to prove ADP TotalSource was a co-employer of our client,” said [V. James DeSimone](#), of [V. James DeSimone Law](#), of Marina del Rey, California. “TotalSource is so intricately involved in critical aspects of the employment relationship, such as investigations into sexual misconduct, discipline, and termination, that it would be an injustice to allow their blatant violation of the law to go unaddressed.”

TotalSource had sought summary judgment to be dropped from the lawsuit.

The case centers around Jane Doe, who was sexually harassed by her supervisor at the printing company, which has since gone out of business. According to the lawsuit, supervisor Armando Lopez made unwanted advances and touched her inappropriately. When she complained, the suit states, she was terminated, while Lopez received only a written warning letter in his file for just one of the acts of sexual harassment.

Doe is suing for assault, wrongful termination in violation of public policy and emotional distress.

The judge's ruling comes after Doe's attorneys presented evidence that TotalSource was the co-employer, including paychecks they issued, the naming of the staffing agency as a co-employer in Premier Printing's employee manual, and statements in the employee manual that employees were on an at-will status with the Miami company.

Further, TotalSource provided policies, among other things, on how to report harassment, what conduct was prohibited in the workplace and how to keep employee time, and it outlined conduct that it deemed unacceptable at the workplace. It asserted discretion in altering the policies. And TotalSource had the ability to ensure that Doe and her coworkers were properly compensated and allotted meal breaks, rest periods and other provisions provided to employees.

Most importantly, TotalSource had the authority to investigate and to recommend discipline to its staff at Premier Printing, as well as the sole discretion to terminate them.

When a manager at the company, Jose Aponte, alerted Plant Manager Mark Musari of Lopez' inappropriate behavior, Musari told Aponte to report the complaints to TotalSource, which Aponte did in a detailed report with the help of Doe, according to the lawsuit. Aponte warned the staffing agency's Employee Relations Consultant Lori Caddell that Lopez had a pattern of harassment and that there may be a lawsuit pertaining to Lopez' conduct. Caddell recommended the written warning. Doe's letter of termination was issued by TotalSource.

"There is no doubt that TotalSource was the employer in this case and, as the employer, had a duty to my client and the rest of its employees at Premier Printing and Mailing to follow its own policies for a harassment-free workplace," DeSimone said. "We are pleased that the judge made the right conclusion and that justice will prevail in this case."

Ryann Hall, of counsel to V. James DeSimone Law, was instrumental in preparing the opposition to TotalSource's motion for summary judgment. Jonathan LaCour, of Employees First Labor Law, of Pasadena, Calif., also represents Doe as co-counsel.

ADP TotalSource is a subsidiary of New Jersey-based Advanced Data Processing Inc. The lawsuit was filed in Los Angeles Superior Court; Jane Doe v. Premier Printing and Mailing, Armando Lopez, ADP TotalSolutions Inc., BC707690 (L.A. Sup. Court, filed Aug. 7, 2020)

Los Angeles employment and civil rights attorney V. James DeSimone has dedicated his 35-year law career to providing vigorous and ethical representation to achieve justice for those whose civil and constitutional rights are violated.

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