

Employers May Be Subject To Liability Under The Illinois Gender Violence Act

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An Illinois Appellate Court recently answered a previously undecided question when it held in *Gasic v. Marquette Management, Inc.*, that a corporation may be subject to liability under the Illinois Gender Violence Act (IGVA).

By way of background, the IGVA allows victims of “gender-related violence” to file civil actions against “a person or persons perpetrating that gender-related violence.” The IGVA defines “gender-related violence” as an assault or battery “committed, at least in part, on the basis of a person’s sex,” and defines “perpetrating” as “either *personally* committing the gender-related violence or *personally* encouraging or assisting the act or acts of gender-related violence.” (emphasis added). A plaintiff who successfully pursues a claim under the IGVA can potentially recover damages, injunctive relief, and attorneys’ fees and court costs.

In *Gasic*, the Appellate Court set out to answer the following question: Can an entity be considered a ‘person’ committing acts ‘personally’ for purposes of liability under the IGVA? The question arose after the plaintiff sued the defendant corporation under the IGVA based on the acts of one of its corporate employees. The trial court dismissed the IGVA claim against the corporation on the ground that the IGVA’s reference to conduct performed “personally” excludes corporations, which do not and cannot act “personally.” Prior to *Gasic*, Illinois courts had avoided the question of corporate liability under the IGVA, while federal courts interpreting the IGVA held that the plain language of the IGVA did *not* permit lawsuits

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against corporate entities.

The court in *Gasic* examined “the evolution of corporate personhood in the case law” and concluded that “under some circumstances, a legal entity, such as a corporation, can act ‘personally’ for purposes of giving rise to civil liability under the Act.” Although the court declined to opine on what those circumstances may be, employers must now be on alert for potential corporate liability under the IGVA where an assault or battery in the workplace is possibly “gender related.”