

KATHERINE MORGAN

v.

HOWARD YEE

Submitted on Briefs September 27, 2011
Decided September 29, 2011

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD, and
JABAR, JJ.

MEMORANDUM OF DECISION

Katherine Morgan appeals from the judgment of the District Court (Portland, *Powers, J.*) denying her complaint for protection from harassment against Howard Yee. Contrary to Morgan's contentions, the court did not err in holding that Morgan had failed to prove harassment pursuant to 5 M.R.S. § 4651(2)(A)-(B) (2010). *See Smith v. Welch*, 645 A.2d 1130, 1132-33 (Me. 1994). The court did not err in finding that there was insufficient evidence to hold Yee vicariously liable as an employer for others' actions towards Morgan, *see Picher v. Roman Catholic Bishop of Portland*, 2009 ME 67, ¶ 32, 974 A.2d 286 (discussing scope of employment pursuant to Restatement (Third) of Agency § 7.07 (2006)) or as principal. *See Page v. Boone's Transp., Ltd.*, 1998 ME 105, ¶ 5, 710 A.2d 256. The court did not abuse its discretion in not drawing an adverse inference from Yee's failure to testify, *see Owen v. Healy*, 2006 ME 57, ¶ 9, 896 A.2d 965, or his failure to call witnesses. *See State v. Brewer*, 505 A.2d 774, 777 (Me. 1985), *cited in Twin Island Dev. Corp. v. Winchester*, 512 A.2d 319, 326 (Me. 1986).

The entry is:

Judgment affirmed.

On the briefs:

Katherine Morgan, pro se

Elliot R. Teel, Esq., Law Office of Elliott R. Teel, P.A., Portland, for
appellee Howard Yee

Portland District Court docket number PA-2010-1484
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