

Missouri Supreme Court Holds Requesting An Accommodation Is Not Protected Conduct

AUTHOR: TIMM SCHOWALTER

On Tuesday, January 14, 2020, in *Lin Lin v. Washington University*, a unanimous Missouri Supreme Court held that an accommodation request, alone, is not protected activity to state a claim for retaliation because it does not satisfy either the opposition or participation clause of Section 213.070.1(2), RSMo. The Court reasoned that the statute was clear and unambiguous and it would not rewrite the statute to provide a cause of action. The case is particularly interesting given it is contrary to the overwhelming federal authority to the contrary, including the Eighth Circuit Court of Appeals.

Take Away: Employers should be on the lookout and expect “oppositions” to a requested accommodation if the employee’s chosen accommodation is not provided.

For more information, about compliance with local, state, and anti-discrimination laws, please contact Timm Schowalter at tschowalter@sandbergphoenix.com, (314) 425-4910 or another member of Sandberg Phoenix & von Gontard, P.C.’s Labor and Employment Law Team.