

MISSOURI EMPLOYERS BEWARE: The Missouri Supreme Court Lowers Standard of Proof for Work Comp Retaliation Claims

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On April 15, 2014, in *Templemire v. W & M Welding, Inc.*, the Missouri Supreme Court continued its pro employee interpretation of the employment at-will doctrine by significantly reducing the causality standard for a workers compensation retaliation claims. Prior to this ruling, Missouri law had long required an employee to prove that the alleged retaliatory motive was the “exclusive factor” for the adverse action, typically a termination.

Going forward, the former employee will now only have to establish that the alleged retaliatory motive was a “contributing factor” to the adverse employment action. In order to make this change in Missouri law, the Missouri Supreme Court’s overruled long standing prior pronouncements that such a change would “encourage marginally competent employees to file the most petty claims in order to enjoy the benefits of heightened job security.”

The decision in *Templemire* continues the Supreme Court’s pattern of lowering the standard of proof for discrimination and retaliation claims filed against Missouri employers. The low “contributing factor” standard, coupled with the Missouri Supreme Court’s prior pronouncement that most, if not all, discrimination and retaliation claims must be decided by a jury rather than by a trial court judge on summary judgment will inevitable result in a substantial increase in retaliation claims being brought against Missouri employers.

Given the ever increasing litigation exposure Missouri employers should consult with their employment counsel before any adverse employment action is taken against an employee.

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