

Missouri Court of Appeals Declines to Recognize “Disparate Impact” Theory of Discrimination

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In doing so, the Court declined to recognize, under Missouri’s anti-discrimination law, a “disparate impact” cause of action for discrimination—that is, a claim of unintentional discrimination resulting from a pattern or practice. This conclusion differs markedly from federal anti-discrimination law, which does recognize such a cause of action.

Facts

In this case, the plaintiff—Amanda Gill (“Gill”)—worked for the City of St. Peters (“City”) as a police department dispatcher. Her husband also worked for the City, but in the parks department. After a few years, the City announced these two departments would merge. A dispute ensued between Gill and the City as to whether the City’s anti-nepotism policy would allow Gill and her husband to work together after the merger.

The City decided it would not, forcing Gill to transfer to the water department, where—although she had the same base pay—she received no raises or overtime pay like she could have received working at the police department.

Gill thereafter filed a charge of discrimination, claiming sex discrimination was “continuing” from the date of her transfer to the present. She labeled one of her two claims of sex discrimination as “disparate impact.” And she repeated such characterization of her claim in the lawsuit she subsequently filed.

In the lawsuit, the City moved to dismiss her “disparate impact” claim. The trial court granted the motion for several reasons, including “the MHRA does not provide for, nor do Missouri courts recognize, a claim of disparate impact.” Gill appealed.

Appeal

The Court of Appeals agreed with the trial court on all reasons for dismissal. On the “disparate impact” issue, the Court started its analysis by noting Gill could not identify any Missouri cases that “explicitly set[s] forth the elements of a sex discrimination – disparate impact claim.”

The Court considered two cases Gill cited that “suggest[ed]” such claim exists under Missouri law. However, the Court did not share her view. Instead, it emphasized Gill’s concessions “there is no guidance in Missouri on the elements of the claim, the manner of proving the claim, nor any MAI approved jury instruction.” The Court continued: “Neither of the cases cited by Gill, nor any other Missouri law we can find, recognizes a disparate impact claim under the MHRA.”

Takeaway

While Missouri and federal anti-discrimination laws share some similarities, they are not co-extensive or identical in all respects. This is one example of a way in which they are significantly different. It is always important to keep such differences (and similarities) in mind when handling a claim of discrimination under state and/or federal law. If you are facing a claim of discrimination under state or federal law, do not hesitate to reach out to a member of our Labor & Employment Team for guidance.