



MISSOURI SUPREME COURT ABANDONS EXCLUSIVE CAUSATION REQUIREMENT FOR WORKER'S COMPENSATION RETALIATORY DISCHARGE CLAIMS

Templemire v. W&M Welding, Inc., -- S.W.3d -- , (Mo. 2014), No. SC93132, 2014 WL 1464574

In *Templemire v. W&M Welding, Inc.*, -- S.W.3d -- , (Mo. 2014), No. SC93132, 2014 WL 1464574, the Missouri Supreme Court threw out its long-held interpretation of section 287.780, RSMo requiring a plaintiff in a worker's compensation retaliatory discharge claim to prove their filing a claim under Chapter 287 was the exclusive cause for the discharge. The Court now holds the employee must demonstrate his or her filing of a workers' compensation claim was merely a "contributing factor" to the employer's discrimination or the employee's discharge.

The Court accepted plaintiff-employee's argument that it should construe this statute consistently with its recent holdings on causation for MHRA claims and for public policy retaliatory discharge claims, which utilize a "contributing factor" causation burden. As part of this sea change in Missouri law, the Court specifically overruled its two foundational cases of *Hansome* and *Crabtree*, which (respectively) adopted (in 1984) and then affirmed (in 1998) the exclusive causation standard for worker's compensation retaliatory discharge claims.

Judge Zel Fischer dissented (joined in by Judge Paul Wilson), pointing out that the Court's earlier decisions declaring the "exclusive" causation standard was later embraced by the General Assembly in sections of Chapter 287. Judge Fischer also pointed out the distinction between the Court ruling on legal causation standards in common law actions, in contrast to statutory causes of action. He wrote that the judiciary's latitude in the latter is essentially limited to implementing the intent of the legislative branch.

Employers will certainly need to be aware of this significant change in retaliatory discharge claims for worker's compensation claims. The practical impact is that employers will now, in a very functional sense, have the burden to prove that employee's filing of a worker's compensation claim had no causative role in the employee's discharge. Given the foundation event of the claim having been filed, though, this issue will be in play throughout a trial and would be considered by the jury, which needs only find it was a "contributing factor".



Paul Venker
Founding Partner

pvenker@wvslaw.com
(314) 345-5001

<http://www.wvslaw.com>

Paul has always practiced, almost exclusively, in the areas of trial and appellate practice. He has taken numerous trials to verdict involving employment discrimination, wrongful discharge and covenants not to compete, medical malpractice, product liability, personal injury and general liability.



WILLIAMS VENKER & SANDERS
ATTORNEYS AT LAW LLC