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Employers Beware: Missouri Supreme Court Heightens the Risk of Dismissing Employees Who Filed Workers Compensation Claims

The Missouri Supreme Court recently overruled the long-standing “exclusive” causation standard for worker’s compensation retaliation claims and held that an employee only needs to demonstrate that filing a worker’s compensation claim was a “contributing factor” to an employer’s discrimination or adverse action. In *Templemire v. W&M Welding, Inc.*, -- S.W.3d --, (Mo. 2014), No. SC 93132, 2014 WL 1464574, (Mo. April 15, 2014), the “contributing factor” standard turns on whether an illegal factor played any role in the decision to discharge the employee rather than the exclusive reason. Put another way, imagine an employer with 10 reasons for terminating an employee—nine of the reasons are lawful and one is because the employee filed a worker’s compensation claim. In that scenario, the firing is illegal discrimination.

The major take-away

The Missouri Supreme Court’s ground-breaking decision makes it significantly easier for employees to prove worker’s compensation retaliation. Employees now may sue and recover if they can prove their worker’s compensation claim was “a factor” in the decision to dismiss, just like in discrimination cases under the Missouri Human Rights Act (MHRA). Therefore, we anticipate a resurgence in these claims. Employers should proceed with caution and seek legal counsel when terminating or taking any other adverse employment action against an employee who has filed a worker’s compensation claim, particularly while the claim is pending. Consideration of an employee’s worker’s compensation claim history should not be taken into account in making an employment decision. Likewise, employers should be very careful to refrain from negative comments or treatment towards employees who make worker’s compensation claims or receive work accommodations.

Thompson Coburn will continue to keep you advised of any developments. If you have questions regarding the above-referenced decision, or other labor or employment issues, please contact your Thompson Coburn attorney or a member of Thompson Coburn's Labor and Employment Group.

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