

Missouri Supreme Court changes causation standard in workers' compensation retaliation cases

Missouri law previously required that to recover for retaliatory discharge based on the filing of a workers' compensation claim, the terminated employee must show that the work comp claim was the "exclusive cause" for his or her discharge. In other words, the employee had to prove that the work comp claim was the only reason for the alleged retaliatory discharge. The employer's proof of any other valid reason for termination generally defeated the employee's retaliatory discharge discrimination claim.

In *Templemire vs. W&M Welding* (Case No. S.C. 93132-Supreme Court of Missouri), the Missouri Supreme Court changed that rule, and overruled all prior cases requiring exclusive causation. The discharged employee now need only show that his or her filing of a work comp claim was a "contributing factor" to the alleged discrimination or retaliatory discharge. Such proof allows the employee to defeat the employer's summary judgment motion, and presumably submit his or her discrimination/ retaliatory discharge claim to the jury.

Employers should take care in discharging an employee with a current or recent work comp claim. It is possible, under the right facts, to show that the work comp claim played no part in the employer's termination decision. But, because of the new contributing factor standard, it is even more important for the employer to properly and fully document the employee's file and the legitimate reasons for discharge. Failure to do so may allow the employee to argue that because the stated reasons for termination are "weak," the workers' compensation claim must have played a part in the termination decision.