

Missouri Supreme Court Rules that Private Remedies Under the Missouri Human Rights Act Preempt Common Law Claims, Strictly Enforces Timely Filing Requirements of the Act

April 6, 2018

The Missouri Supreme Court recently placed two important restrictions on the ability of a plaintiff to bring a lawsuit for actions that fall within the reach of the Missouri Human Rights Act (MHRA). The Court issued a permanent writ of prohibition finding that a circuit court exceeded its authority and abused its discretion in allowing an employee to proceed with claims against her former employers under the MHRA and common law theories of negligence and wrongful discharge. Lathrop Gage prevailed on behalf of their client in this case. *State ex rel. Church & Dwight Co. v. Collins* and *State ex rel. Focus Workforce Management, Inc., et al. v. Collins* (Joint opinion issued April 3, 2018).

The Missouri Human Rights Act (MHRA) prohibits employment discrimination based on race, color, religion, national origin, ancestry, sex, age and disability. The MHRA provides a private cause of action for violations of these protections. To take advantage of the Act's private remedies, a potential claimant must first file a charge of discrimination with the Missouri Commission on Human Rights (MCHR), which must then issue a "right-to-sue" letter. The claimant then has 90 days from the issuance of this letter to file a lawsuit based on alleged violations of the Act.

In *Collins*, a plaintiff-employee filed a lawsuit for alleged violations of the MHRA against her former employers and several employees in their individual capacity, exactly 91 days after the date noted on her "right to sue" letter. The defendant-employers filed motions to dismiss the MHRA claim based on the untimely filing. After these motions were fully briefed, the plaintiff requested that she be granted leave to amend her lawsuit to also bring claims of common law negligence and wrongful discharge.

The circuit court denied the employers' motions to dismiss and granted the employee permission to pursue common law claims in addition to her MHRA claim. Attorneys representing the employers, including Lathrop Gage, brought an original proceeding before the Missouri Supreme Court in order to challenge this ruling.

On April 3, 2018, the employers prevailed. The Missouri Supreme Court granted a permanent writ of prohibition (vacating the circuit court's rulings) that established two key limitations on an individual's private



right of action under the MHRA.

First, the Missouri Supreme Court made clear that the MHRA's ninety (90) day window for filing a private cause of action is to be strictly enforced. The Court ruled that the clock begins to run from the date noted on the MCHR's "right-to-sue" letter, not the date the letter was sent, nor the date it was received by the plaintiff. The Missouri Supreme Court also rejected any possibility that this date could be extended beyond this 90 days for equitable reasons. Thus, a plaintiff-employee's lawsuit under the MHRA must be filed within 90 days of the date noted on the face of the "right to sue" letter, or otherwise be time barred.

Second, the Missouri Supreme Court held that the private remedy available under the MHRA is the sole remedy for plaintiffs to whom the Act applies. In rejecting plaintiff's request to amend her lawsuit to bring common law claims, the Court held that the claims are preempted by the MHRA. The Court ruled that the MHRA provides a comprehensive remedy to potential plaintiffs, which envelops any remedy available under common law claims. Thus, common law remedies are no longer available to these plaintiffs if the alleged misconduct falls under the umbrella of the MHRA's protections.

Click [here](#) to view the Court's full opinion.