

MISSOURI SUPREME COURT REINFORCES A KEY DEFENSE STRATEGY FOR EMPLOYERS: WHAT YOU NEED TO KNOW

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Missouri Supreme Court Reinforces a Key Defense Strategy for Employers: What You Need to Know

Employers just received clarity from the Missouri Supreme Court that's helpful for your litigation strategy. The court made clear in an April 21 ruling that summary judgment is not an "extreme and drastic remedy," and court opinions that say so should no longer be followed. This opinion can be used as a legitimate procedural tool to help employers defend against costly workplace claims. Here's what you need to know about the ruling and what it means for your business.

Breakdown of the Facts and Relevant Law

Missouri's [Service Letter Law](#) establishes a specific process for how and when a terminated employee can request a service letter from a former employer:

- ✓ The service letter must be requested in writing within a year of the employee's discharge and sent by certified mail to the superintendent, manager, or registered agent of the corporation that employed them.
- ✓ The former employer has 45 days to issue a compliant service letter describing the "nature and character" of the employee's work, length of service, and why the employee was discharged or voluntarily departed.

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✗If the former employer fails to comply, it may be liable for nominal damages, compensatory damages, or punitive damages.

In this case, a discharged wet plant foreman sent a service letter request to Farmer Holding Co., and he sued when the company failed to respond in time. Farmers then **filed for summary judgment**, claiming that the foreman did not send a service letter request to his actual employer, Capital Sand Proppants, the legal entity that issued his W-2s. In other words, he did not send the request to the corporation that employed him, as the statute requires.

What is summary judgment? Judges may grant summary judgment and dismiss a case before the trial stage of litigation if they find there is no genuine dispute about material facts in the case. On the flipside, if a case survives a summary judgment motion, it generally means the case will be slated for trial – often putting settlement pressure on the employer.

Ultimately, the Missouri Supreme Court found that the foreman failed to follow proper procedures in his court filings during litigation. Since his response to Farmers didn't comply with the rules, he essentially admitted the truth of each of Farmers' statements of material fact, which supports summary judgment in Farmers' favor.

Notably, the Missouri Supreme Court weighed in with a key point about summary judgment that's good news for employers in the state. We'll discuss that more below.

Summary Judgment Is Not "Extreme and Drastic"

The foreman in this case claimed that the circuit court shouldn't have granted Farmers the "extreme and drastic remedy of summary judgment" because there were multiple genuine issues of material fact.

Importantly, the Missouri Supreme Court clearly said that summary judgment is **not** an extreme and drastic remedy. This is significant because Missouri judges have been reluctant to grant summary judgment in employment claims based on historical precedent that summary judgment is an "extreme and drastic" remedy. Even if summary judgment historically had been regarded as such, the Missouri Supreme Court reminded the parties that its precedent

abandoned the “slightest doubt” standard where summary judgment was defeated “when *any* doubt exists, no matter how unreasonable.”

“To the extent this court’s opinions or opinions of the court of appeals hold or suggest summary judgment is an extreme or drastic remedy, those cases should no longer be followed,” the court said.

Why This Matters for Employers

This ruling may shift your strategy for defending workplace cases in Missouri. Summary judgment is a litigation tool that can help employers defend against claims and seek dismissal before proceeding to a costly trial. In Missouri, plaintiff’s attorneys will often go to great lengths to keep a case in Missouri state court and prevent the case from being removed to federal court where judges are not constrained by this “extreme and drastic” summary judgment standard, and employers have a stronger likelihood of getting some or all claims dismissed before trial.

So, instead of focusing solely on preparing for trial, you’ll want to work with counsel to prepare for summary judgment and build a complete factual record early on. In the long run, this can save time and reduce costs by eliminating the need for a trial.

One more important takeaway for employers: This case stemmed from some confusion by the employee as to who his actual employer was. Farmers did not respond to the foreman’s service letter request and noted in subsequent court filings that his actual employer was its subsidiary, Capital Sand. This serves as a reminder to:

- Be clear to workers and on employment documents about the legal entity that is the employer
- Timely respond to proper service letter requests
- Work with your Missouri attorney to determine the best compliance and litigation defense strategies

Conclusion

If you have any questions, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [Kansas City office](#). Make sure you are subscribed

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