

## insights

# Missouri enacts new employment law favoring employers

On June 30, Governor Eric Greitens signed into law a new bill making notable changes to rights and remedies for claims under Missouri's discrimination law ("MHRA") and claims for whistleblower retaliation. The changes more closely align Missouri with federal employment discrimination law standards. Going into effect on August 28, 2017, the major changes include:

- **Motivating Factor Standard:** The motivating factor standard replaces the contributing factor standard for proving discrimination under the MHRA. Whereas plaintiffs previously only had to prove that their protected characteristic was a "contributing" factor to the employer's action, plaintiffs now have to prove that the protected characteristic was the "motivating" factor for the adverse employment action. This new standard brings Missouri in line with the federal standard for proof of employment discrimination.
- **Damage Caps:** The law imposes caps on compensatory and punitive damages based on the size of the employer, ranging from \$50,000 for employers with 100 or fewer employees to \$500,000 for employers with more than 500 employees.
- **Individual Liability:** Plaintiffs may no longer sue their managers, supervisors, and colleagues as individuals. This change may have the effect of curbing plaintiffs' attempts to remain in state court.
- **Summary Judgment:** State courts are required to use summary judgment to determine whether cases should proceed to trial based on the assembled evidence. Although available in nearly all jurisdictions, summary judgment previously has been difficult to achieve in Missouri state courts.
- **Business Judgment:** The law recognizes an employer's right to present a business judgment defense and requires the trial judge to give a business judgment jury instruction for every MHRA case.
- **Whistleblower's Protection:** The law also eliminates whistleblower claims against the state and its political subdivisions, alters available remedies, and limits the employees who qualify for whistleblower protections.

The law will only affect claims filed after August 28, 2017. Until then, employers doing business in Missouri may experience an increase in the filing of MHRA claims by plaintiffs who wish to take advantage of the current and more plaintiff-friendly environment.

For more information on how the new law will affect your company specifically, please reach out to a representative of Thompson Coburn's [Labor & Employment practice group](#).

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