Missouri Limits Punitive Damages in Workplace Lawsuits

July 15, 2020

On July 1, 2020, Missouri Governor Mike Parson signed Senate Bill (SB) 591, which modifies various provisions relating to civil actions. Notably, for Missouri employers, the bill modifies and restricts the way punitive damages are considered in lawsuits brought by current or former employees who allege intentional harm by an agent of the employer (e.g., a manager, supervisor, or HR professional).

SB 591 provides that punitive damages will only be awarded if the plaintiff "proves by clear and convincing evidence that the defendant intentionally harmed the plaintiff without just cause or acted with a deliberate and flagrant disregard for the safety of others." This language is a change to the previously lower burden on plaintiffs for establishing punitive damages. Additionally, plaintiffs may now only seek punitive damages by submitting a written motion for leave to file a pleading seeking punitive damages and can no longer seek them in an initial pleading. Such motions must be supported by evidence "establishing a reasonable basis for recovery of punitive damages." SB 591 also provides that "[t]he amount of punitive damages shall not be based, in whole or in part, on harm to nonparties."

Plaintiffs must file a motion for punitive damages no later than 120 days before the final pre-trial conference or trial date. The court must rule on the motion no later than 45 days after a hearing on the motion, or if no hearing is held, after the defendant has filed its response to the motion. A defendant's assets are not discoverable until the court has granted a plaintiff's motion to file a pleading seeking punitive damages. SB 591 also allows a defendant to "file a post-trial motion requesting the amount awarded by the jury as punitive damages be credited by the court with amounts previously paid in any state or federal court by the defendant for punitive damages arising out of the same conduct on which the imposition of punitive damages is based" (emphasis added).

SB 591 limits the ability of plaintiffs to recover from employers based on the conduct of an employee. The bill provides that punitive damages may only be awarded against an employer because of an act by an employee if: (1) the employer authorized the employee's conduct; (2) the employee was "unfit" and the employer "was reckless in employing or retaining [the employee]"; (3) the employee "was employed in a managerial capacity and was acting in the scope of employment"; or (4) the employer "ratified or approved" the employee's conduct.

Overall, SB 591 provides greater protection for employers against claims for punitive damages in civil actions. Governor Parson said he was "proud to sign SB 591," noting that "[p]rotecting Missouri businesses and equipping them with the tools to succeed has always been a priority of my administration" and that the legislation "will stop the unfair and unreasonable litigation our businesses face."
All existing caps and limitations on the amount of punitive damages remain applicable. Under the Missouri Human Rights Act, punitive damages were already capped as follows: $50,000 for employers with more than 5 but fewer than 101 employees; $100,000 for employers with more than 100 but fewer than 201 employees; $200,000 for employers with more than 200 but fewer than 501 employees; and $500,000 for employers with more than 500 employees. Under the state's Whistleblower's Protection Act, plaintiffs cannot recover punitive damages but can recover back pay plus reimbursement of medical bills, and, if the employer's conduct was "outrageous," the plaintiff can recover double their back pay plus payment for medical bills.

SB 591 goes into effect on August 28, 2020, and will only apply prospectively to actions filed on August 28, 2020, or thereafter.