

Parent Company not ‘Employer’ under Missouri Law, Court Rules, Reverses \$1.5 Million Award

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An employer's parent corporation that did not “directly act[] in the interest” of the employer was not a covered employer under the Missouri Human Rights Act liable for harassment and retaliation, a Missouri Court of Appeals has ruled. [*Diaz v. AutoZoners, LLC, d/b/a AutoZone, et al.*](#), No. WD77861 (Mo. Ct. App. Nov. 10, 2015). The Court applied a modified “economic realities” test and reversed the jury verdict and judgment of \$1,500,000 in punitive damages against the parent corporation.

Background

Delise Diaz sued her employer, AutoZoners, LLC, and its parent corporation, AutoZone, Inc., for alleged hostile work environment harassment, caused by two customers, and retaliation under the Missouri Human Rights Act.

A jury found in favor of Diaz on her hostile work environment claim, but found in favor of the defendants on her retaliation claim. It awarded Diaz \$75,000 in compensatory damages and \$1,000,000 in punitive damages against AutoZoners. The plaintiff was awarded \$1,500,000 in punitive damages against AutoZone. The trial court also awarded the plaintiff \$243,826.25 in attorney's fees and \$10,075.05 in costs. AutoZone appealed, arguing it was not an employer under the MHRA.

Definition of Employer

The MHRA defines an “employer” to include “any person employing six or more persons within the state, and any person directly acting in the interest of an employer.” Mo. Rev. Stat. § 213.010(7). Since AutoZone did not employ at least six persons in Missouri, the appellate court must determine whether AutoZone is covered by the MHRA because it “directly acted in the interest” of AutoZoners.

Parent Corporation not Employer

The appeals court found that AutoZone was not an employer under the MHRA and reversed judgment against AutoZone.

The Court adopted a modified version of the “economic realities” test typically used in Missouri wage cases to determine whether an entity is “directly acting in the interest of” the employer. Under the modified economic realities test, courts examine the following factors:

1. who was responsible for establishing policies and training employees concerning harassment;
2. who was responsible for receiving, investigating, and responding to harassment complaints;
and
3. who had the power to discipline employees who may have failed to comply with anti-harassment policies.

Although AutoZone provided AutoZoners with a store handbook, code of conduct, and other human resources guidelines, the Court found the provision of such documents, in and of itself, did not establish that AutoZone directly oversaw or was actively involved.

Likewise, the fact that AutoZone responded to Diaz’s charge of discrimination (after the harassment occurred and had been remedied), the Court said, did not establish that AutoZone was Diaz’s employer at the time or that it directly oversaw or was actively involved. Accordingly, the Court concluded that AutoZone was not Diaz’s employer and reversed the punitive damages judgment against it.

The Court emphasized that separate corporations should be “regarded as wholly distinct legal entities, even if one partly or wholly owns the other.”

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