

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**M. LOUISE RESSLER**

**v.**

**CLAY COUNTY, MISSOURI**

**APPELLANT,**

**RESPONDENT.**

---

DOCKET NUMBER WD73601  
**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

DATE: June 19, 2012

---

Appeal From:

Clay County Circuit Court  
The Honorable Roger M. Prokes, Judge

---

Appellate Judges:

Division Three: Karen King Mitchell, P.J., James M. Smart, Jr., and Gary D. Witt, JJ.

---

Attorneys:

Karen K. Howard, Kansas City, MO, for **appellant**.

Michelle R. Stewart, Overland Park, KS, and Kevin A. Graham, Liberty, MO, for **respondent**.

---

**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**M. LOUISE RESSLER,**

**APPELLANT,**

**v.**

**CLAY COUNTY, MISSOURI,**

**RESPONDENT.**

No. WD73601

Clay County

Before Division Three: Karen King Mitchell, P.J., James M. Smart, Jr., and Gary D. Witt, JJ.

Louise Ressler worked as a deputy treasurer in the office of the Clay County Treasurer from 1998 until 2008. Ressler filed this action asserting four counts against Clay County, including causes of action for sex discrimination, age discrimination, disability discrimination, and retaliation. She brought the cause of action for sex discrimination, Count I, on behalf of herself and all other female employees of Clay County that are similarly situated. Ressler's cause of action alleged that the County paid similarly situated males more than Ressler and the putative female class members.

Clay County filed a motion for summary judgment as to Ressler's *individual* claims of sex discrimination (not the putative class members' claims). The County contended that because there were no male employees working in the Treasurer's Office during the relevant time period challenged, Ressler's argument for sex discrimination failed as a matter of law, as each individual elected official was in charge of determining salaries for their employees within the appropriation set for that office by the County Commission.

The trial court granted Clay County's motion for partial summary judgment as to Ressler's claim for sex discrimination and did not rule as to class certification. Ressler appeals. Ressler argues that the trial court was required to rule on the issue of certification of the putative class *before* considering and granting a pre-certification dispositive motion regarding her individual claims. Ressler then argues the trial court erred in granting partial summary judgment as to her individual sex discrimination claim, because the court came to the incorrect legal conclusion that individual elected office holders determine salaries for their employees, not the County Commission.

**AFFIRMED.**

**Division Three holds:** (1) As an issue of first impression in Missouri, and consistent with federal court interpretations of Federal Rule of Civil Procedure 23, from which the court may seek guidance, neither Rule 52.08 nor due process required that the trial court make a determination of class certification prior to ruling on the dispositive summary judgment motion

before the court (here Clay County's motion for partial summary judgment). (2) The trial court did not err in granting summary judgment as to Ressler's individual sex discrimination claim, because the County established that Ressler was employed by the elected Treasurer of Clay County and that the elected Treasurer of Clay County had full authority under the law to set the salaries of the employees within that office, subject only to the available funds appropriated to that office by the Commission, and Ressler admitted that there were no males employed by the Treasurer's office during the relevant time period of her claim, such that no genuine issue of material fact existed and Ressler's argument failed as a matter of law.

Opinion by James M. Smart, Jr., Judge

June 19, 2012

\*\*\*\*\*

This summary is UNOFFICIAL and should not be quoted or cited.