
**IN THE SUPREME COURT
OF THE STATE OF MISSOURI**

Harold Lampley and Rene Frost,

Appellants,

vs.

The Missouri Commission on Human Rights and
Alisa Warren, Executive Director,

Respondents.

Appeal from the Circuit Court of Cole County, Missouri
The Honorable Patricia S. Joyce

Appellants' Substitute Brief

SOWERS & WOLF, LLC
Jill A. Silverstein, 34433
js@sowerswolf.com
Ferne P. Wolf, 29326
fw@sowerswolf.com
D. Eric Sowers, 24970
es@sowerswolf.com
Joshua M. Pierson, 65105
jp@sowerswolf.com
530 Maryville Centre Dr., Suite 460
St. Louis, MO 63141
Phone: (314) 744-4010
Facsimile: (314) 744-4026

Attorneys for Appellants

TABLE OF CONTENTS

| | |
|--|----|
| Table of Contents..... | 2 |
| Table of Authorities..... | 3 |
| Jurisdictional Statement..... | 6 |
| Statement of Facts | 7 |
| Points Relied On..... | 10 |
| Argument | 11 |
| Point I | 11 |
| The circuit court erred in granting summary judgment because the MHRA covers Lampley and Frost’s claims in that Lampley and Frost claimed sex stereotyping in their Charges, which is sex discrimination. | |
| Point II | 18 |
| The circuit court erred in granting summary judgment because the Commission abused its discretion by finding it lacked jurisdiction over Lampley and Frost’s Charges in that Lampley and Frost alleged sex stereotyping discrimination | |
| Conclusion..... | 20 |
| Certificates..... | 21 |

TABLE OF AUTHORITIES

Cases

Alhalabi v. Mo. Dep’t of Natural Res., 300 S.W.3d 518
 (Mo. App. E.D. 2009) 17, 18

Christiansen v. Omnicron Grp., Inc., 852 F.3d 195 (2d Cir. 2017) 14, 15

Daugherty v. City of Maryland Hts., 231 S.W.3d 814 (Mo. banc 2007) 11, 13

EEOC v. Boh Bros. Const. Co., LLC, 731 F.3d 444 (5th Cir. 2013)..... 14

Ferguson v. Curators of Lincoln Univ., 498 S.W.3d 481
 (Mo. App. W.D. 2016)..... 11

Franchina v. City of Providence, ___ F.3d ___, No. 16-2401, 2018 U.S. App.
 LEXIS 1919, 2018 WL550511 (1st Cir. Jan. 25, 2018) 15

Georgia v. McCollom, 505 U.S. 42 (1992) 12

Hill v. Ford Motor Co., 277 S.W.3d 659 (Mo. banc 2009)..... 17, 19

Hively v. Ivy Tech Comm. Coll. of Ind., 853 F.3d 339 (7th Cir. 2017) 15

ITT Commercial Fin. Corp. v. Mid-America Marine Supply Corp.,
 854 S.W.2d 371 (Mo. banc 1993)..... 11, 18

Lampley v. Mo. Comm’n on Human Rts., No. WD80288, 2017 Mo. App.
 LEXIS 1069 (Mo. App. Oct. 24, 2017) transfer granted, SC 96828
 (Mo. Jan. 23, 2018) 11

Mo. Comm’n on Human Rts. v. Red Dragon Rest., Inc., 991 S.W.2d 161
 (Mo.App. W.D. 1999)..... 18

Pollock v. Wetterau Food Distrib. Group, 11 S.W.3d 754
 (Mo.App. E.D. 1999) 12

Price Waterhouse v. Hopkins, 491 U.S. 228 (1989) 13, 14

Smith v. City of Salem, Ohio, 378 F.3d 566 (6th Cir. 2004)..... 14, 15

State ex rel. Martin Erb v. Mo Comm’n on Human Rts.,
 77 S.W.3d 600 (Mo. banc 2002)..... 13

State ex rel. Tivol Plaza, Inc. v. Mo. Comm’n on Human Rts., 527 S.W.3d 837
 (Mo. banc 2017)..... 11

State v. Parker, 836 S.W.2d 930 (Mo. 1992) 12

THF Chesterfield N. Dev., L.L.C. v. City of Chesterfield, 106 S.W.3d 13
 (Mo.App.E.D. 2003) 18

Zarda v. Altitude Express, Inc., No. 15-3775 (2d Cir. Feb. 26, 2018)(banc)..... 15

Statutes

Missouri

§ 213.010 8, 15

§ 213.101 17

§ 213.030 12

§ 213.055 6, 7, 11, 12, 13

§ 213.070 6, 7, 8

§ 213.075 6, 17

§ 512.020 6

§ 536.150 6, 18

Federal

42 U.S.C. § 2000e-2(a)(1) 13
42 U.S.C. § 2000e-5 6

Regulations

8 CSR 60-3.040 12
8 CSR 60-3.040(2)(A)(2) 12, 19

Jurisdictional Statement

This appeal is from a final judgment, so RSMo 512.020 gives the court jurisdiction.

This case is based on petitioner/appellants Harold Lampley and Rene Frost's claims against their employer, Missouri Department of Social Services and two individuals, Steven Kissinger and Cathy Woods under the Missouri Human Rights Act (MHRA or the Act). RSMo 213.055 and 213.070;¹ A16 and A18;² LF 071-79.³ Lampley and Frost filed Charges⁴ with the Missouri Commission on Human Rights. LF 071-79. The Commission terminated the administrative proceedings. LF 084, 087.

Lampley and Frost then filed petitions for administrative review or, alternatively, for mandamus under RSMo 536.150. LF 008-17. The trial court consolidated the petitions. LF 037. The parties filed cross-motions for summary judgment. LF 052-168.

The trial court granted the Commission's summary judgment motion on December 1, 2016. LF 171-79; A1. Lampley and Frost filed their Notice of Appeal on December 9, 2016. The Court of Appeals, Western District issued its decision on October 24, 2017. The Commission sought, and this Court granted, transfer.

¹ All references to the Missouri Human Rights Act are to the version in effect when the Charges were filed. RSMo 213.010, *et seq.* (2016).

² A is a reference to the pages of Appellant's Substitute Appendix

³ LF is a reference to the pages of the Legal File where the relevant documents appear.

⁴ The terms "Complaint" and "Charge" refer to the same administrative document. In the record, the relevant document is called a "Charge," so Petitioners are using that term in this Brief. In the MHRA, the document is called a "complaint." RSMo 213.075; A19. Under Title VII, the administrative document is a "charge." 42 U.S.C. § 2000e-5; A37.

STATEMENT OF FACTS

II. Lampley's Charges and Termination of Proceedings

A. Charges

Lampley filed a Charge of Discrimination under the MHRA based on sex discrimination and retaliation. RSMo 213.055.1, 213.070.2; A16, A18. In the area in which he was to identify the causes of discrimination, Lampley identified "sex" and "retaliation." LF 071-72. Later, when Lampley filed an amended Charge, he still identified "sex" and "retaliation" as the causes of discrimination. Part of the Charge form is a blank space with no direction about what information to include. In that space, Lampley wrote about his treatment at work, stating he "does not exhibit the stereotypical attributes of how a male should appear and behave." LF 071, ¶ 5.

B. The Commission terminates its proceedings

The Commission concluded that in alleging sex discrimination, Lampley meant sexual orientation discrimination: "Complainant alleged that Respondent discriminated against him because of his sex and in retaliation. By sex Complainant means sexual orientation." LF 085-86. The Commission also concluded that the MHRA protected neither sexual orientation nor complaining about sexual orientation discrimination. LF 085-06. Based on those conclusions, the Commission determined that it lacked jurisdiction over the complaint because "it did not involve a category covered by the MHRA." LF 084.

The Commission administratively closed the case and terminated its proceedings without issuing a Notice of Right to Sue, ending Lampley's ability to pursue an MHRA claim. LF 084-05.

III. Frost's Charges and Termination of Proceedings

A. Charges

Frost claimed in her Charges that the Respondents discriminated against her because of her association with Lampley, under RSMo 213.070.4. She also alleged retaliation under RSMo 213.070.2. LF 075-76. In the area of the Charge in which she was to identify the causes of discrimination, Frost identified "Other: Association with person protected by § 213.010 et seq." and "retaliation." LF 075. Later, when Frost filed an amended Charge, she stated the same causes of discrimination. LF 077. In the blank part of the form, Frost described her treatment at work, stating she was treated that way because of her association with Lampley. She said that Lampley "does not exhibit the stereotypical attributes of how a male should appear and behave." LF 076, ¶ 17.

B. The Commission terminates its proceedings

The Commission concluded that Frost alleged that she was discriminated against "because of her association with someone who is gay and in retaliation for complaining about it." LF 089. The Commission also concluded that as sexual orientation is not protected by the MHRA, "discrimination and retaliation because of associating with someone who is gay is also not protected by the MHRA." LF 089. Based on those conclusions, the Commission determined that it lacked jurisdiction because "the complaint did not involve a category covered by" the MHRA. LF 087.

The Commission administratively closed the case and terminated its proceedings without issuing a Notice of Right to Sue, ending Frost's ability to pursue an MHRA claim. LF 087-88.

IV. Petition for Administrative Review

Lampley and Frost filed petitions for administrative review or, alternatively, for mandamus, asking the circuit court to direct the Commission to issue Notices of Rights to Sue on their respective Charges. LF 008-017. The circuit court consolidated the petitions. LF 037. The Commission opposed the petition, arguing the Commission lacked jurisdiction over the Charges because the MHRA does not cover sexual orientation discrimination. LF 046-51.

The parties filed cross-motions for summary judgment. LF 052-168. The circuit court granted the Commission's motion. LF 171-79.

POINTS RELIED ON

Point I

The circuit court erred in granting summary judgment because the MHRA covers Lampley and Frost's claims in that Lampley and Frost claimed sex stereotyping in their Charges, which is sex discrimination.

Ferguson v. Curators of Lincoln Univ., 498 S.W.3d 481 (Mo. App. W.D. 2016)

Price Waterhouse v. Hopkins, 491 U.S. 228 (1989)

RSMO 213.055

8 CSR 60-3.040(2)(A)(2)

Point II

The circuit court erred in granting summary judgment because the Commission abused its discretion by finding it lacked jurisdiction over Lampley and Frost's Charges in that Lampley and Frost alleged sex stereotyping discrimination.

Hill v. Ford Motor Co., 277 S.W.3d 659 (Mo. banc 2009)

Alhalabi v. Mo. Dep't of Natural Res., 300 S.W.3d 518 (Mo. App. E.D. 2009)

RSMo 536.150

8 CSR 60-3.040(2)(A)(2)

ARGUMENT

Point I

The circuit court erred in granting summary judgment because the MHRA covers Lampley and Frost's claims in that Lampley and Frost claimed sex stereotyping in their Charges, which is sex discrimination.

Standard of Review

The standard of review for a grant of summary judgment is *de novo*. *ITT Commercial Fin. Corp. v. Mid-America Marine Supply Corp.*, 854 S.W.2d 371, 376 (Mo. banc 1993). Questions of law are reviewed *de novo*. *State ex rel. Tivol Plaza, Inc. v. Mo. Comm'n on Human Rts.*, 527 S.W.3d 837, 842 (Mo. banc 2017).

Argument

I. Sex discrimination under the MHRA includes sex stereotyping

When an employer discriminates against an employee because of sex, the employer violates the MHRA. RSMo 213.055.1; A16; *Daugherty v. City of Maryland Hts.*, 231 S.W.3d 814, 820 (Mo. banc 2007).

A. Missouri courts recognize stereotyping is evidence of discriminatory animus

Missouri courts have recognized that making an employment decision because of a stereotype about an employee's protected trait is proof of discrimination. *Ferguson v. Curators of Lincoln Univ.*, 498 S.W.3d 481, 491 (Mo. App. W.D. 2016). Thus, the Court of Appeals here found that sex stereotyping was evidence of discrimination and unlawful under the MHRA. *Lampley v. Mo. Comm'n on Human Rts.*, No. WD80288, 2017 Mo.

App. LEXIS 1069 (Mo. App. Oct. 24, 2017) transfer granted, SC 96828 (Mo. Jan. 23, 2018).

In another context, jury selection, Missouri courts hold that parties cannot strike potential jurors because of either the race of the juror “or the racial stereotypes held by the party.” See *State v. Parker*, 836 S.W.2d 930, 942 (Mo. 1992)(conc.) quoting *Georgia v. McCollom*, 505 U.S. 42, 59 (1992). While courts decide juror challenges based on the Constitution, not the MHRA, the underlying principle about discriminatory animus is the same. The beholders’ stereotypes reflect their bias.

B. The Commission recognizes that the MHRA’s prohibition against sex discrimination also prohibits conduct based on sex stereotypes

The Commission recognizes that the MHRA’s prohibition against sex discrimination—the “because of sex” language—means that sex stereotyping is unlawful. See RSMo 213.055 (prohibiting discrimination “because of . . . sex”); A16.

The Commission is the state agency charged with promulgating rules and regulations to carry out the MHRA. RSMo 213.030.1(6); A14. Thus, the Commission promulgated regulations covering “Employment Practices Related to Men and Women.” 8 CSR 60-3.040; A25. In one of those regulations, the Commission states stereotyping because of sex violates the principle of nondiscrimination:

The refusal to hire an individual based on stereotyped characterizations of the sexes.... The principle of nondiscrimination requires that individuals be considered on the basis of individual capacities and not on the basis of any characteristics generally attributed to the group. *Id.* at (2)(A)(2); A25.

Commission regulations have the power of law. *Pollock v. Wetterau Food Distrib.*

Group, 11 S.W.3d 754, 766 (Mo.App. E.D. 1999). And the Commission is bound by its

own regulation. *State ex rel. Martin Erb v. Mo Comm'n on Human Rts.*, 77 S.W.3d 600, 607 (Mo. banc 2002). While the first clause of the regulation appears to limit the subsection's applicability to the hiring of men and women, there is no rational reason for the prohibition to be so limited. RSMo 213.055 (prohibiting discrimination based on many characteristics on all aspects of the employment relationship); A16.

C. Federal courts recognize that Title VII's prohibition against sex discrimination covers sex stereotyping

For decades, federal courts have interpreted the federal law prohibiting sex discrimination—Title VII—to mean that discriminating against a person based on stereotypes is unlawful.

Missouri courts can look to federal employment discrimination caselaw for guidance in interpreting the MHRA, provided the relevant language of the federal law is consistent with the MHRA. *Daugherty*, 231 S.W.3d at 818. The language prohibiting sex discrimination under Title VII and the MHRA is the same. Compare, 42 U.S.C. § 2000e-2(a)(1) (“because of such individual’s . . . sex”) with RSMo 213.055.1(1)(a) (“because of such individual’s . . . sex”); A31 and A16.

The seminal Title VII case is *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989). The Supreme Court found

we are beyond the day when an employer could evaluate employees by assuming or insisting that they matched the stereotype associated with their group, for in forbidding employers to discriminate against individuals because of their sex, Congress intended to strike at the entire spectrum of disparate treatment of men and women resulting from sex stereotypes. *Id.*, at 251 (internal quotes and citations omitted).

In *Price Waterhouse*, the partner’s advice that Hopkins should walk more femininely, talk more femininely, and wear make-up was evidence of sex stereotyping. *Id.*, at 272.

Courts continue to find Title VII violations based on evidence that the plaintiff did not meet the employer’s sex stereotype. See, e.g., *Christiansen v. Omnicron Grp., Inc.*, 852 F.3d 195, 199 (2d Cir. 2017). For example, in *EEOC v. Boh Bros. Const. Co., LLC*, 731 F.3d 444, 456 (5th Cir. 2013), the court found that the harasser viewed the plaintiff as not being manly enough. The evidence included questions and answers such as:

“Q: Now, when you said that Mr. Wood was kind of gay for using Wet Ones, you were saying that he was feminine, is that correct?

A: I didn’t say he was gay. Said it . . . seemed kind of gay” *Id.*, at 457.

The Court of Appeals found this type of evidence sufficient to establish sex discrimination; the harasser denigrated the plaintiff because the plaintiff “fell outside of [the harasser’s] manly-man stereotype.” *Id.*, at 459. See also, *Smith v. City of Salem, Ohio*, 378 F.3d 566, 573 (6th Cir. 2004)(holding that discrimination based on gender nonconformity violated Title VII).

II. Sex stereotyping claims under the MHRA are not sexual orientation claims

Respondents argued below that because Lampley is gay his sex discrimination claim is really a claim for sexual orientation discrimination. A claim they insist the MHRA does not cover. But a claim of sex discrimination based on stereotyping does not become a sexual orientation claim just because the claimant is gay. Nor do gay people lose the

protections against well-established forms of discrimination just because of their sexual orientation.⁵

All people are members of various classes that the MHRA does not protect, but being a member of an unprotected class does not eliminate the protections the MHRA otherwise affords. For example, if an employer decides not to hire “old men,” a seventy-year-old man has no age discrimination claim. RSMo 213.010.1 (defining “age” as more than forty but less than seventy years old); A11. But the same man still has a sex discrimination claim, even if he discloses his age in a Charge filed with the Commission. Similarly, Lampley’s sexual orientation, regardless of MHRA coverage, does not deprive him of other MHRA protections, such as the prohibition against sex discrimination.

Lampley and Frost’s sex stereotyping claims are not, as Respondents argued below, mere labeling. Nor are stereotyping claims sexual orientation claims under a different name. Courts can and do distinguish between the two types of cases. For example, in *Christiansen*, 852 F.3d at 199-201, the court held that plaintiff stated a Title VII sex stereotyping claim even though he alleged many facts addressing his sexual orientation. Similarly, in *Smith*, 378 F.3d at 574, the court held that Title VII protected the plaintiff,

⁵ Petitioners are not addressing whether the MHRA covers sexual orientation discrimination. As one U.S. Court of Appeals recently observed, “Though the tide may be turning when it comes to Title VII’s protections,” it was not that court’s job to reexamine an earlier sexual orientation ruling at that time. *Franchina v. City of Providence*, ___ F.3d ___, No. 16-2401, 2018 U.S. App. LEXIS 1919, *59 n.19, 2018 WL550511 (1st Cir. Jan. 25, 2018), citing *Hively v. Ivy Tech Comm. Coll. of Ind.*, 853 F.3d 339, 341 (7th Cir. 2017). See also, *Zarda v. Altitude Express, Inc.*, No. 15-3775 (2d Cir. Feb. 26, 2018)(banc)(holding Title VII protects against sexual orientation discrimination).

who was transgender, for not conforming to gender norms. The Court of Appeals held that sex stereotyping because of “a person’s gender non-conforming behavior is impermissible discrimination, irrespective of the cause of that behavior.” *Id.*, at 575.

III. Lampley and Frost claimed sex stereotyping as the basis for discrimination, so the Commission should not have dismissed

A. Lampley and Frost alleged sex discrimination

The MHRA requires claimants file a charge stating the name and address of the person alleged to have committed the unlawful acts and setting forth “the particulars thereof and such other information as may be required by the commission.” RSMo 217.075.1; A19.

After providing names and addresses in his Charge, Lampley stated: 1) that the cause of discrimination against him was his sex, and 2) that his supervisors, Kissinger and Wood, knew that he did not exhibit the stereotypical attributes of how a male should appear and behave. LF 073, Cause of Discrimination Section and ¶ 5. Frost stated, among other things: 1) that the cause of discrimination against her was association with a person protected by the MHRA (Lampley), and 2) that Lampley’s supervisors knew that Lampley did not exhibit the stereotypical attributes of how a male should appear and behave. LF 075, Cause of Discrimination Section and ¶ 5.

This was enough to raise a claim of sex discrimination which, as discussed in Parts I and II above, includes sex stereotyping.

B. The Charges put Respondents on notice of Lampley and Frost's claims

Below, Respondents argued that Lampley and Frost did not sufficiently describe their claims to put the Commission on notice that they were alleging sex discrimination and stereotyping. The Commission argued that under the MHRA, complainants must plead their charges with the same specificity as they would in civil petitions. In other words, that the MHRA requires fact-pleading. This is incorrect.

The MHRA is a remedial statute. Thus “administrative complaints are interpreted liberally in an effort to further the remedial purposes” of the Act. *Alhalabi v. Mo. Dep't of Natural Res.*, 300 S.W.3d 518, 525 (Mo. App. E.D. 2009); see also, RSMo 213.101; A22. Charge filing gives notice to the charged party and provides an avenue for voluntary compliance through conciliation. *Hill v. Ford Motor Co.*, 277 S.W.3d 659, 669 (Mo. banc 2009).

In *Hill*, this Court held that a plaintiff could sue a party without naming that party in a charge. The decision was based on the same MHRA provision which would be at issue here. RSMo 213.075.1; A19. Since *Hill*, the Court of Appeals has held that administrative remedies are exhausted for all incidents of discrimination that are “like or reasonably related to the allegations of the administrative charge.” *Alhalabi*, 300 S.W.3d at 525. And “the scope of the civil suit may be as broad as the scope of the administrative investigation which could reasonably be expected to grow out of the charge of discrimination.” *Id.*

Lampley and Frost's Charges are easier cases than *Hill* and *Alhalabi*; the Commission needed only to read Lampley's Charge to find his sex discrimination claim. He checked

the box. LF 071. The Charges thus satisfied the statutory purpose of charge-filing. The Charges notified the charged parties that Lampley and Frost claimed sex discrimination which, at its core, was based on stereotyping.

POINT II

The circuit court erred in granting summary judgment because the Commission abused its discretion by finding it lacked jurisdiction over Lampley and Frost’s Charges in that Lampley and Frost alleged sex stereotyping discrimination.

Standard of Review

This Court reviews the trial court’s grant of summary judgment *de novo*. *ITT*, 854 S.W.2d at 376. The circuit court’s review of the Commission’s decision was also *de novo*, assessing whether the Commission’s decision was “unlawful, unreasonable, arbitrary, capricious, or otherwise involve[d] an abuse of discretion.” *THF Chesterfield N. Dev., L.L.C. v. City of Chesterfield*, 106 S.W.3d 13, 18 (Mo.App.E.D. 2003); RSMo 536.150; A24.

ARGUMENT

I. The Commission abused its discretion by interpreting the Charges in a way to avoid coverage and failing to consider the plain language of the Charges

A. Charges are to be interpreted liberally to further the remedial purposes of the MHRA

The MHRA is a remedial statute. *Mo. Comm’n on Human Rts. v. Red Dragon Rest., Inc.*, 991 S.W.2d 161, 166-67 (Mo.App. W.D. 1999). “[A]ll reasonable doubts should be construed in favor of applicability to the case.” *Id.* See also, *Alhalabi*, 300 S.W.3d at 525. Construing the MHRA liberally includes reading Charges to state a claim when they do.

Hill, 277 S.W.3d at 670 (noting “the availability of complete redress of legitimate grievances without undue encumbrance by procedural requirements”).

B. The Commission refashioned the Charges, interpreting plain words that did not need interpretation

Here, the Commission abused its discretion by failing to read the Charges liberally or even verbatim. Lampley alleged sex was the “Cause of Discrimination” against him and that Kissinger and Woods knew he didn’t exhibit the stereotypical attributes of how a male should appear and behave. LF 073. Thus, Lampley alleged that the acts he described occurred because Kissinger and Woods believed that his appearance and behavior did not conform to the gender stereotype they had for him. That conduct is unlawful under the MHRA. See Point I, Part I.

But instead of reading the Charge as written or viewing the Charge in the light favoring coverage, the Commission refashioned Lampley’s allegations to deny jurisdiction. In so doing, the Commission undermined the remedial purpose of the Act, an abuse of discretion. As for Frost, the Commission decided if Lampley wasn’t covered, neither was she. See Statement of Facts, Part II.B.

II. The Commission abused its discretion by focusing on the word “gay”

The Commission abused its discretion in two ways by fixating on the word “gay.”

First, the Commission should have recognized the MHRA violation because its own regulations prohibit stereotyping. 8 CSR 60-3.040(2)(A)(2); A25; see Point I, Part I.B.

Second, the Commission cherry-picked the word “gay,” deciding it was the only word that mattered and reading the Charge in a light least favorable to coverage. Courts

can and do distinguish between sex stereotyping and sexual orientation discrimination allegations in the same case. See Point I, Part II. The Commission should have done so here.

CONCLUSION

Lampley and Frost alleged sex stereotyping discrimination which violates the MHRA. The Commission, abusing its discretion, ignored those allegations. Thus, this Court should affirm the Appellate Court's decision.

/s/ Jill A. Silverstein
SOWERS & WOLF, LLC
Jill A. Silverstein, 34433
js@sowerswolf.com
Ferne P. Wolf, 29326
fw@sowerswolf.com
D. Eric Sowers, 24970
es@sowerswolf.com
Joshua M. Pierson, 65105
jp@sowerswolf.com
530 Maryville Centre Dr., Suite 460
St. Louis, MO 63141
Phone: (314) 744-4010
Facsimile: (314) 744-4026

CERTIFICATE OF SERVICE AND COMPLIANCE

I certify that a true and correct copy of Appellants' Substitute Brief and Appendix were served via the Missouri CaseNet e-filing system on February 27, 2018 to:

Julie Marie Blake, Office of the Attorney General

D. John Sauer, Office of the Attorney General

I further certify that Appellants' Substitute brief complies with the limitations contained in Rule 84.06(b), contains the information required by Rule 55.03, and that the entire brief contains 3,831 words.

/s/ Jill A. Silverstein
