OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

TAMMIE MCKINNEY,	)	No. ED107400
	)	
Plaintiff/Respondent,	)	Appeal from the Circuit Court
	)	of St. Louis County
vs.	)	
	)	
MERCY HOSPITAL ST. LOUIS,	)	Honorable Joseph S. Dueker
	)	
Defendant/Appellant.	)	Filed: March 17, 2020

Mercy Hospital St. Louis (Appellant) appeals from the judgment of the trial court entered after a jury found in favor of Tammie McKinney (Respondent) on her claim of disability discrimination under the Missouri Human Rights Act (MHRA). Respondent was employed as a housekeeper by Appellant. Respondent alleged Appellant fired her because she suffered from arthritis and degenerative spinal disease which did not interfere with her ability to do her job. On appeal Appellant claims (1) Respondent failed to introduce substantial evidence she was disabled, as defined by the MHRA; (2) Respondent failed to introduce substantial evidence she was discriminated against because of her disability; and (3) Respondent's claim should be barred by judicial estoppel because Respondent applied for and received Social Security Disability (SSD) benefits by making claims fundamentally at odds with claims in her MHRA suit.

AFFIRMED, and REMANDED with instructions.

Division Three Holds: (1) Evidence at trial was sufficient for the trier of fact to have found Respondent was disabled within the meaning of the MHRA; (2) evidence at trial was sufficient for the finder of fact to have found Appellant discriminated against Respondent because of her disability; and (3) judicial estoppel is not applicable because, *inter alia*, the claims in Respondent's SSD application and MHRA claim are not factually irreconcilable. The case is remanded to the trial court to determine reasonable attorney's fees to be awarded to Respondent as the prevailing party.

Opinion by: Sherri B. Sullivan, J. Mary K. Hoff, P.J., and Angela T. Quigless, J., concur.

Attorneys for Appellant:	James M. Paul, Andrew L. Metcalf
Attorneys for Respondent:	Edward D. Robertson Jr., Edward D. Robertson III, Kelly C. Frickleton, Jeremy D. Hollingshead, Nicholas J. Dudley

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