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COMPLETE TITLE OF CASE

EDGAR ALFONZO BANKS, APPELLANT
vs.
KANSAS CITY AREA TRANSPORTATION AUTHORITY, RESPONDENT

DOCKET NUMBER WD84186
MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DATE: October 26, 2021

Appeal from:

The Circuit Court of Jackson County, Missouri
The Honorable Adam L. Caine, Judge

Appellate Judges:

Division One: W. Douglas Thomson, Presiding Judge, Alok Ahuja, Judge and Karen King Mitchell, Judge

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MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

EDGAR ALFONZO BANKS, APPELLANT,
v.
KANSAS CITY AREA TRANSPORTATION AUTHORITY, RESPONDENT.

WD84186 Jackson County

Before Division One Judges: W. Douglas Thomson, Presiding Judge, Alok Ahuja, Judge and Karen King Mitchell, Judge

Edgar A. Banks ("Banks") appeals the judgment of the Jackson County Circuit Court dismissing his claims under the Missouri Human Rights Act (the "MHRA") for failure to state a claim upon which relief can be granted. Banks asserted claims of sex discrimination and retaliation against the Kansas City Area Transportation Authority's (the "KCATA"), a bi-state entity. The KCATA moved to dismiss the action for failing to state a claim upon which relief can be granted, which the trial court granted. On appeal, Banks claims the trial court erred in granting the KCATA's motion to dismiss for failure to state a claim upon which relief may be granted because: (1) the interstate compact (the "Compact") that created the KCATA does not include issues of employment discrimination in its subject matter and, therefore, does not preclude the application of the MHRA to the KCATA; (2) the "concurred in" clause of the Compact does not preclude the application of the MHRA to the KCATA in that the MHRA is "complementary or parallel" to the Kansas Act Against Discrimination (the "KAAD") and does not impose an impermissible unilateral burden on the KCATA; (3) the dismissal of Banks' claims based on an unpleaded affirmative defense was improper; (4) the KCATA should be judicially estopped from denying that it is subject to the MHRA; and (5) the KCATA should be equitably estopped from denying that it is subject to the MHRA.

AFFIRMED.

Division One holds:

When Banks' claims accrued, the MHRA and KAAD had different burdens of proof and were different in other areas, as well. As a result of the different burdens of proof, the MHRA imposes a burden on KCATA that the KAAD does not. The different burdens of proof render the acts not identical for all intents and purposes. The increase in potential employer liability that accompanies the different burdens of proof under the MHRA and the KAAD imposes an impermissible unilateral burden on KCATA. Accordingly, the acts were not complementary or parallel and the KCATA is not subject to suit under the MHRA.

The unmistakability doctrine does not apply and has never been recognized by Missouri courts in any context; and even in jurisdictions that recognize the unmistakability

doctrine, it has not been applied to a similar compact, where the issue concerns whether the laws of one of the compacting states can be applied to an entity created by the compact itself.

Even if the compacts clause issue were treated as an affirmative defense, KCATA's motion to dismiss for failure to state a claim upon which relief may be granted was properly granted as KCATA's exemption from the MHRA's coverage was established on the face of the Petition.

Banks fails to demonstrate that judicial or equitable estoppel is appropriate in that there was no misleading of a court or a belated assertion of known rights, but rather a change in position in response to decisions handed down by the Eastern District.

Opinion by: W. Douglas Thomson, Judge Date: October 26, 2021

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