MISSOURI COURT OF APPEALS
WESTERN DISTRICT

CHERI NABIL EL-HALAWANY, M.D., AND LIEN PHAM RUSSELL, M.D.
APPELLANTS,
v.
THE CHILDREN'S MERCY HOSPITAL
RESPONDENT.

DOCKET NUMBER WD87135

DATE: JUNE 17, 2025

Appeal From:

Jackson County Circuit Court
The Honorable John M. Torrence, Judge

Appellate Judges:

Division Two: Cynthia L. Martin, Presiding Judge, Gary D. Witt, Judge, and W. Douglas Thomson, Judge

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Attorneys:

Austin Parker, Overland Park, KS, for appellant.

Julianne Story, Jenna Brofsky, Kansas City, MO, for respondent.

Summary Modified on July 22, 2025

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

CHERI NABIL EL-HALAWANY, M.D., AND LIEN PHAM RUSSELL, M.D., APPELLANTS,
v.
THE CHILDREN'S MERCY HOSPITAL, RESPONDENT.

WD87135 Jackson County

Before Division Two Judges: Cynthia L. Martin, Presiding Judge, Gary D. Witt, Judge, and W. Douglas Thomson, Judge

Cheri Nabil El-Halawany and Lien Pham Russell (collectively "Appellants") appeal from the grant of summary judgment by the Circuit Court of Jackson County, Missouri ("trial court"), in favor of The Children's Mercy Hospital ("CMH"), finding Appellants failed to make a prima facie case of unlawful employment discrimination on their various discrimination claims against CMH under the Missouri Human Rights Act ("MHRA"), section 213.010, *et seq*., RSMo. Appellants raise four points on appeal arguing: Point I, the trial court erred in granting summary judgment because CMH failed to comply with Rule 74.04's electronic copy requirements; Point II, the trial court erred in granting summary judgment because Appellants did articulate a prima facie case of discrimination and retaliation against CMH; Point III, the trial court erred in granting CMH's motions *in limine* because it failed to adequately consider the potential relevance of the testimony and documentation Appellants should have been allowed to present at trial; and Point IV, the trial court erred in denying Appellants' motion to amend pleading to include punitive damages.

AFFIRMED.

Division Two holds:

CMH did comply with Rule 74.04(c)(1)'s electronic copy provision as CMH filed its statement of uncontroverted material facts with the Missouri state court's electronic filing system, thus serving Appellants with a PDF copy. Appellants do not even attempt to persuade this Court or sufficiently explain how a filing with the court's electronic filing system fails to satisfy Rule 74.04(c)(1)'s electronic copy provision.

Appellants failed to establish a prima facie case of employment discrimination as the record does not reflect Appellants suffered an adverse employment action. The fact

that Appellants were selected for temporary reassignment does not constitute an adverse employment action under these facts. Here, Appellants not only remained primary care pediatricians in the employ of CMH while assigned to the Vibrant clinic location, they were in fact eligible to receive up to $15,000 in additional salary stipends for their temporary assignment to Vibrant. This alone fails to constitute an adverse employment action. While Appellants assert the working conditions at Vibrant were "intolerable", the only conditions of which they complain comprised of a one-day clogged sewage line which occurred after they were reassigned, temporary issues with a phone system, a different medical records system, and a relative lack of support staff. Appellants fail to establish that these temporary and relatively minor problems at Vibrant constituted an adverse employment action.

We do not address Appellants' third point on appeal as no motions *in limine* are presently before this Court since this appeal is from the trial court's grant of summary judgment. Additionally, we decline to address Appellants' fourth point on appeal because we find the trial court did not err in granting summary judgment on the underlying claim.

Opinion by: Gary D. Witt, Judge June 17, 2025

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