MISSOURI COURT OF APPEALS
WESTERN DISTRICT

SHEILA GASSNER, Respondent,
v.
LINCOLN UNIVERSITY BOARD OF CURATORS TO LINCOLN UNIVERSITY, Appellant.

DOCKET NUMBER WD87999

DATE: NOVEMBER 17, 2026

Appeal From:

Cole County Circuit Court
The Honorable William E. Hickle, Judge

Appellate Judges:

Special Division: Lisa White Hardwick, Presiding Judge, Mark D. Pfeiffer, Judge, and Gary D. Witt, Judge

---

Attorneys:

John A. Hirth, Columbia, Missouri, for Respondent,

Mollie G. Mohan, St. Louis, Missouri, for Appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

SHEILA GASSNER, Respondent,
v.
LINCOLN UNIVERSITY BOARD OF CURATORS TO LINCOLN UNIVERSITY, Appellant.

WD87999 Cole County

Before Special Division: Lisa White Hardwick, Presiding Judge, Mark D. Pfeiffer, Judge, and Gary D. Witt, Judge

The Board of Curators of Lincoln University ("University") appeals from the judgment in favor of its former employee, Sheila Gassner, on her claims of hostile work environment based on race and constructive discharge under the Missouri Human Rights Act ("MHRA"). The University contends the circuit court erred in: (1) denying its motion for judgment notwithstanding the verdict ("JNOV") because Gassner's claims were barred by the MHRA's statute of limitations and administrative exhaustion requirement; (2) denying its motion for new trial based on the erroneous exclusion of relevant evidence under the attorney-client privilege; (3) submitting an erroneous verdict director for Gassner's hostile work environment claim; (4) submitting an erroneous instruction for the defense of failure to mitigate; (5) submitting an erroneous verdict form on punitive damages; and (6) denying the University's motion for new trial or remittitur because the court failed to merge the punitive damages awards on Gassner's two claims.

AFFIRMED, IN PART, AND REVERSED AND REMANDED, IN PART.

Special Division holds:

1. The circuit court did not err in denying the University's JNOV motion asserting Gassner's claims were time barred. Gassner presented sufficient evidence to support the application of the continuing violation exception in determining the timeliness of her hostile work environment claim, and her constructive discharge occurred well within the statutory time periods.

2. The circuit court did not err in denying the University's new trial motion based on the erroneous exclusion of evidence. The attorney-client privilege applied to the evidence, and Gassner's counsel's inadvertent production of the evidence during discovery did not waive the privilege.

3. The circuit court did not plainly err in submitting the verdict director for Gassner's hostile work environment claim. A plaintiff alleging a hostile work environment claim is not required to prove a discrete, specific, adverse employment action. By requiring the jury to find Gassner was subjected to unwelcome harassment that was sufficiently severe or pervasive such that a reasonable person in her position would find the work environment intimidating, hostile, offensive, or abusive, the instruction properly submitted the ultimate facts to the jury.

4. The circuit court erred in submitting the instruction for the University's affirmative defense of failure to mitigate damages. The instruction impermissibly deviated from MAI 32.29, prejudiced the University by imposing a greater burden on it, and materially affected the merits of the case. The actual damages award on Gassner's constructive discharge claim is reversed. Because an actual damages award is a prerequisite to a punitive damages award, the punitive damages award on the constructive discharge claim is also reversed. The University is entitled to a new trial on damages on Gassner's constructive discharge claim, with the jury properly instructed on failure to mitigate damages using an instruction patterned on MAI 32.29.

5. Our reversal of the punitive damages award on Gassner's constructive discharge claim renders it unnecessary to decide the University's points alleging the jury's award of punitive damages on both the hostile work environment claim and constructive discharge claim constitutes an impermissible double recovery. If, on retrial, the jury awards Gassner punitive damages on her constructive discharge claim, the University is free to reassert its duplicative recovery argument to the circuit court.

6. Gassner is entitled to an award of attorney fees for the fees incurred for issues on which she prevailed in this appeal. The circuit court is directed to determine the amount on remand.

Opinion by: Lisa White Hardwick, Presiding Judge November 17, 2026

This summary is UNOFFICIAL and should not be quoted or cited