

**Summary of SC88981, *Cynthia Hill v. Ford Motor Company, Ken Hune, and Paul Edds***  
Appeal from the St. Louis County circuit court, Judge David Lee Vincent III.

**Attorneys:** Hill was represented by Ferne P. Wolf, D. Eric Sowers and M. Beth Fetterman of Sowers & Wolff LLC in St. Louis, (314) 744-4010; and the corporate respondents were represented by Kathleen M. Nemechek, Stephen M. Bledwoe and Charlie Harris of Berkowitz Oliver Williams Shaw & Eisenbrandt LLP in Kansas City, (816) 561-7007. The Kansas City and St. Louis chapters of the National Employment Lawyers Association – which filed a brief as friends of the Court – were represented by Marie L. Gockel, Lynne Jaben Bratcher and Kristi L. Kingston of Kansas City, (816) 221-1614.

*This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.*

**Overview:** An employee appeals the grant of summary judgment to corporate defendants on her claims of sexual harassment resulting in a hostile work environment and retaliation. In a unanimous decision written by Chief Justice Laura Denvir Stith, the Supreme Court of Missouri reverses the trial court’s judgment and remands the case (sends back) to the trial court. Factual questions exist as to whether directing the employee to see a psychiatrist and suspending her for three days constituted adverse employment actions or retaliation, as those claims are governed by state law, not federal law, and suit against the individual supervisor was permitted along with suit against the company under the state law.

**Facts:** Cynthia Hill worked for Ford Motor Company on the assembly line, where she alleges she was sexually harassed by a supervisor, Ken Hune. Hill alleges she and other female employees complained to their group leader about Hune’s sexually harassing behavior. The group leader passed these complaints on to the plant superintendent, who took no action. Hune refused to let Hill begin her new assignment to a position Hune supervised, slammed the door in her face, became increasingly angry, came at Hill in an aggressive way and, when she raised her safety glasses as she backed away, immediately told her that this action was a safety violation. When Hill told a management employee and a labor relations supervisor, Paul Edds, of Hune’s sexually harassing behavior toward her, Edds interrupted and told her not to come back to work until she got psychiatric help. A few days later, Hill called Ford’s 24-hour “hotline,” (established to receive reports of sexual harassment) and reported that after she complained about being sexually harassed, she was told she was crazy, needed psychiatric help and was sent home from work. An hour after Hill called the hotline, Edds called Hill at home and rescinded his order that she see a psychiatrist but then suspended Hill for three days. Ford later terminated Hune for actions Hill alleges were unrelated to her complaints. Hill filed charges of sexual harassment and retaliation against Ford with the Missouri Commission on Human Rights and the Equal Employment Opportunity Commission concerning these events. After receiving the right-to-sue letter, Hill filed suit against Ford, Ken Hune and Paul Edds under the Missouri Human Rights Act. The trial court granted summary judgment to Ford and Edds. Hill appeals.

**REVERSED AND REMANDED.**

**Court en banc holds:** (1) Both Hill’s hostile work environment claim and her retaliation claim are governed by Missouri law. As noted in *Daugherty v. City of Maryland Heights*, 231 S.W.3d 814 (Mo. banc 2007), therefore, the standard for surviving summary judgment is whether the plaintiff can make out a claim for harassment or retaliation under the state’s human rights act at sections 213.055 and 213.070, RSMo. The federal burden-shifting analysis applied in cases such as *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), does not apply.

(2) Questions of fact exist that preclude summary judgment on Hill’s claim of sexual harassment resulting in a hostile work environment. Hill presented evidence that the sexual harassment was a contributing factor in Ford’s “adverse employment actions” of suspending Hill and referring her for psychiatric treatment.

(3) Hill presented evidence that her protected conduct – a prior discrimination complaint and her complaints about the sexual harassment – was a contributing factor in Ford’s retaliatory employment actions. Questions of material fact exist that preclude summary judgment on this claim.

(4) The human rights act permits lawsuits against individuals because it defines “employer” to include “any person acting in the interest of an employer ....” This is broad enough to include supervisory employees such as Edds.

(5) Though section 213.075.1, RSMo, requires complainants to name the person alleged to have committed the unlawful discriminatory practice, lawsuits against unnamed persons may be permitted in certain circumstances where no prejudice occurs. On remand, the trial court shall consider whether these factors are satisfied here as to Edds.