

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

SHARRY MCDONALD,

Appellant

v.

CITY OF KANSAS CITY, MISSOURI.

Respondent

DOCKET NUMBER WD69866

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: April 7, 2009

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Robert Michael Schieber, Judge

Appellate Judges:

Division Three

James M. Smart, Jr., P.J., Joseph M. Ellis, and James Edward Welsh, JJ.

Attorneys:

David A. Lunceford, Lee's Summit, MO

Counsel for Appellant,

Attorneys:

Saskia C.M. Jacobse, Kansas City, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**SHARRY MCDONALD, Appellant, v.
CITY OF KANSAS CITY, MISSOURI, Respondent**

WD69866

Jackson County

Before Division Three Judges: Smart, Jr., P.J., Ellis, and Welsh, JJ.

Sharry McDonald filed suit against the City of Kansas City for damages for one count of wrongful termination. Kansas City filed a motion to dismiss claiming that sovereign immunity barred McDonald's claims. McDonald requested leave for additional time to respond to the motion to dismiss. After the requested time expired, but before the trial court ruled on the request, McDonald filed her first amended petition, containing a similar count to the one in her original petition, and adding two federal claims. The trial court granted her request for additional time. Subsequently the trial court dismissed the case with prejudice. McDonald appeals.

REVERSED AND REMANDED.

Division Three holds:

Because Kansas City had not filed a responsive pleading McDonald could file an amended petition without leave of the court. Once an amended petition has been filed, all previous petitions are abandoned. Since the motion to dismiss only addressed the original, abandoned petition, it could no longer be considered by the trial court.

Opinion by Welsh, J.

Date: April 7, 2009

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED