



Missouri Supreme Court Addresses Constitutionality of 2005 Workers' Compensation Legislative Amendments

Author: Mary Anne Lindsey
Evans & Dixon, L.L.C.

On February 24, 2009, the Supreme Court issued its long-awaited, much-anticipated decision in *Missouri Alliance for Retired Americans v. Department of Labor and Industrial Relations, Division of Workers' Compensation*. Therein, numerous labor organizations challenged the constitutionality of the 2005 amendments to the Workers' Compensation Act. Those amendments made significant changes to the workers' compensation law. In particular, the 2005 amendments redefined the terms "accident", "injury", and "occupational disease", so as to limit the scope of the Act and to remove certain injuries, accidents, and medical conditions from the coverage of the Act.

After the passage of the 2005 amendments, a group of 71 organizations, which included 66 labor unions, four labor councils and a not-for-profit corporation, filed a nine-count petition against the Division of Workers' Compensation in the Cole County Circuit Court, challenging the constitutional validity of the amendments. None of the plaintiffs in the Cole County action was an individual injured worker or group of injured workers, who had sought to recover workers' compensation benefits, under the Act as amended in 2005.

Plaintiffs argued that the 2005 amendments deprived injured workers of due process, and violated the open courts provision of the Missouri Constitution, as well as other constitutional rights of injured workers. The labor organizations contended that the intent of the 2005 amendments was to reduce the scope of benefits available to workers injured on the job. They challenged the 2005 amendments as a whole, challenged specific statutory provisions, and sought a declaratory judgment regarding the rights of injured workers whose accidents no longer fell within the scope of the Workers' Compensation Act. In their challenges to the amended Act as a whole, the plaintiffs argued that, as amended, the Act violated injured workers' rights to procedural due process and that the Act, as a whole, violated the open courts provision of the Missouri Constitution. The open courts provision prohibits any law that arbitrarily or unreasonably bars individuals or classes of individuals from accessing the Missouri courts in order to enforce recognized causes of action for personal injury. It ensures that a person has access to the courts when that person has a legitimate claim recognized by the law. The labor organizations asked the Supreme Court to review the substantive content of the amended Act and to find that the Act unconstitutionally deprived workers of their right to certain compensation for a work-related injury. Alternatively, the labor organizations argued that the 2005 amendments violated workers' due process rights, because the amendments were arbitrary and lacked a rational relationship to legitimate legislative goals.

The Division of Workers' Compensation filed for summary judgment on all counts, on the grounds of lack

of justiciability. The Cole County Circuit Court granted summary judgment to the Division of Workers' Compensation, finding that many of the counts were not justiciable. Subsequently, the labor organizations appealed to the Missouri Supreme Court, arguing that the workers' compensation law as a whole was unconstitutional, and that the claims in their petition were justiciable.

In its plurality Opinion, the Supreme Court affirmed the trial court's judgment in part, and reversed the judgment in part. The Supreme Court held that the labor organizations' constitutional arguments about the Act as a whole, and their argument seeking a determination as to how the amended Act applied to those individuals excluded from receiving benefits under the amendments, presented justiciable controversies as to whether the Act, as amended in 2005, deprived those workers now excluded from the Act from all right to recovery under either the Workers' Compensation Act or the common law, and as to whether the Act provided an adequate substitute for the common law rights of action that workers had given up.

To the extent that the labor organizations asked the Supreme Court to hold that specific provisions of the Workers' Compensation Act, as amended, were unconstitutional because they were so narrow and restrictive that they provided no adequate remedy for an injured worker, the Court found that the plaintiff organizations had developed no facts to support these arguments, since no individual workers' compensation claims were before the Court. The labor organizations' attack was a general one, on the effect of the changes as a whole, on the Act as a whole, in a hypothetical sense, without application to any particular injured employee. The Supreme Court held that there was no justiciable claim as to the specific provisions of the amended Act at this time.

In the absence of individual facts, it was impossible for the Court to adjudicate the underlying arguments that the amended provisions would be applied unfairly, in such a manner as to be unconstitutional. Nothing in the record before the Supreme Court showed how the amended provisions were being interpreted or applied. Thus, it was premature to address the constitutional validity of the amended provisions individually, in the absence of such facts. Without judicial interpretation of the individual statutory provisions being challenged by the labor organizations, the Supreme Court could not compare the effect of those provisions as a whole, to the Act as initially enacted, or determine whether the amended Act, as a whole, violated the open courts or due process provisions of the Missouri and Federal Constitutions. These issues were not ripe for review until the meaning of the provisions in question was determined in individual workers' compensation cases.

However, the Supreme Court held that the labor organizations' request for a declaratory judgment as to the scope of the exclusivity clause was ripe for adjudication. The labor organizations asserted that, as a result of the 2005 amendments' narrowing of the definitions of "accident" and "injury", a substantial number of employees with work-related injuries were excluded from recovering compensation. They sought a declaratory judgment to address whether the exclusivity provision contained in Section 287.120 barred those injured workers' ability to pursue negligence tort actions against their employer. As the Court observed, by limiting the definitions of "accident" and "injury", the scope of the Workers' Compensation Act was circumscribed. The removal of certain injuries and accidents from the scope of the Act also placed the injured workers who suffered those injuries outside of the workers' compensation system. Those workers were no longer covered by the Act.

Reading together the new definitions of "accident" and "injury" with the exclusivity provision, the Supreme Court held that if an injury comes within the definition of the term "accident" as defined in Section 287.020.2, it was included within the exclusivity provisions of the Act and recovery could be had, if at all,

under the terms set out in the Workers' Compensation Act. Conversely, if the injury was one that was not included within the term "accident", as defined in the Act, then under Section 287.120.1, an employer was not liable to the employee under the Act, and the injury was not subject to the exclusivity provisions of the Act. Workers excluded from the Act by the narrower definitions of "accident" and "injury" had the right to bring suit under the common law, just as they could and did prior to the initial adoption of the Workers' Compensation Act, because they no longer fell within the exclusivity provision of the Act, as set out in Section 287.120.

For questions, please contact your Evans & Dixon attorney.

Evans & Dixon, L.L.C. has published this legal update for informational purposes only. It discusses the issues raised by new developments in the law generally. Readers must avoid considering it to be a substitute for legal advice. This update, furthermore, creates no attorney-client relationship between Evans & Dixon, L.L.C. and any readers or recipients. Because it discusses the issues that it addresses generally, it may not apply to a particular individual legal or factual circumstance. Readers should neither take any action nor avoid taking any action based on the information stated in this update without first obtaining advice from their choice of legal counsel. The choice of a lawyer is an important decision and should not be based solely upon advertisements. © 2009 Evans & Dixon, L.L.C. All rights reserved. Reproduction of all or any part of this article requires the written permission of Evans & Dixon, L.L.C.