

***Mo. ALLIANCE FOR RETIRED AMERICANS V. DEP'T OF LABOR,
277 S.W.3D 670 (Mo. BANC 2009)***

On February 24, 2009 the Missouri Supreme Court issued an opinion in *Mo. Alliance For Retired Americans v. Dep't of Labor*, 277 S.W.3d 670 (Mo. banc 2009), addressing whether the 2006 modifications to the Missouri Workers' Compensation law changed the exclusive remedy provision. More specifically, whether Section 287.120 MO. REV. STAT. (2008) bars Missouri workers ability to pursue negligence tort actions in civil courts against their employers for certain types of injuries.

The 2005 amendments to the Missouri Workers' Compensation law changed the definition of "accident" in §287.020.3. The definition of "injury" was not discussed in detail in the opinion. The new definition of "accident" was important because the exclusivity provision of §287.120 was not modified by the 2005 amendments, and the Workers' Compensation law is the exclusive remedy for "accidental injury or death".

The Supreme Court interpreted §287.120 to mean the Worker's Compensation law is the exclusive remedy only for those "injuries" that come within the definition of the term 'accident' under the act." *Id. at 679-80*. Under section 287.020.2, "[t]he word "accident" as used in this chapter shall mean an unexpected traumatic event or unusual strain identifiable by time and place of occurrence and producing at the time objective symptoms of an injury caused by a specific act during a single work shift ... " *Id. at 679*.

The plaintiffs in the case, sought a declaratory judgment that Missouri workers, whose injuries no longer fit the definition of accidental injury under the Missouri Workers' Compensation Statute, could pursue civil actions against their employers. The plurality opinion held:

It therefore is adjudged, decreed and declared that workers excluded from the act by the narrower definition of "accident" and "injury" have a right to bring suit under common law, just as they could and did prior to the initial adoption of the act, because they no longer fall within the exclusivity provision of the act as set out in Section 287.120.

Id. at 680.

The Court expressly refused to state what specific claims no longer fit the definition of accident and left it to be determined on a case-by-case basis.

SUBMITTED BY

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