

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE:**

**TRAVIS ANDERSON, DEC., BY HIS DEPENDENTS, APPELLANT,**

**v.**

**VERACITY RESEARCH CO., RESPONDENT.**

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DOCKET NUMBER WD70452

DATE: November 10, 2009

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Appeal From:

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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Appellate Judges:

Division One: Alok Ahuja, P.J., James M. Smart, Jr., and Lisa White Hardwick, JJ

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Attorneys:

Jerrold "Jerry" Kenter, Kansas City, MO, **for appellant.**

Steven J. Quinn, Kansas City, MO, **for respondent.**

# MISSOURI APPELLATE COURT OPINION SUMMARY

## MISSOURI COURT OF APPEALS, WESTERN DISTRICT

**TRAVIS ANDERSON, DEC., BY HIS DEPENDENTS, APPELLANT**

**v.**

**VERACITY RESEARCH CO., RESPONDENT**

WD70452

LABOR AND INDUSTRIAL RELATIONS COMMISSION

Before Division One Judges: Alok Ahuja, P.J., James M. Smart, Jr., and Lisa White Hardwick, JJ.

Travis Anderson worked for Veracity Research Company, investigating workers' compensation claimants who were suspected of fraud. Anderson was killed in a one-car accident in Jackson County, Missouri, on July 19, 2003. He was survived by his wife and two minor children. Anderson's family filed a claim with the Division of Workers' Compensation seeking benefits for Anderson's death. The Division acknowledged receipt of the claim on February 24, 2004. Veracity filed an untimely answer in August 2005. The claim proceeded to a hearing before an administrative law judge. The administrative law judge concluded that Veracity's untimely answer did not prevent it from defending against Anderson's family's claim. She further found that Anderson's fatal accident did not arise out of and was not in the course and scope of his employment. The judgment awarded no benefits. The Labor and Industrial Relations Commission agreed. Anderson's family appeals.

**AFFIRMED.**

### **Division One holds:**

- (1) An untimely answer results in admission of factual allegations in the claim for compensation, but whether an injury was in the course of employment is a legal question not admitted by an untimely answer.
- (2) A reasonable fact finder could conclude from the evidence that Anderson's accident did not arise out of and in the course of his employment given that: Anderson had none of the tools of his trade in his car (laptop, clipboard, camcorder, tapes for camcorder, cell phone, cell phone charger, cell phone earpiece) that are required when conducting surveillance; the accident occurred around midnight, many hours after Anderson's normal quitting time; there was no evidence that Anderson had been authorized or requested to work past normal working hours; Anderson was intoxicated at the time of the accident; and consumption of alcohol while on the job was not permitted.

**Opinion by: James M. Smart, Jr., Judge**

November 10, 2009

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