

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE**

ANGELA ANDERSON,

Appellant,

v.

UNION ELECTRIC COMPANY,

Respondent.

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**DOCKET NUMBER WD76927**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** June 10, 2014

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**APPEAL FROM**

The Circuit Court of Morgan County, Missouri  
The Honorable Kenneth M. Hayden, Judge

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**JUDGES**

Division III: Pfeiffer, P.J., and Hardwick and Gabbert, JJ.

CONCURRING.

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**ATTORNEYS**

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

ANGELA ANDERSON, )  
)  
) **Appellant,** )  
v. ) **OPINION FILED:**  
) **June 10, 2014**  
UNION ELECTRIC COMPANY, )  
)  
) **Respondent.** )

**WD76927**

**Morgan County**

**Before Division III Judges:** Mark D. Pfeiffer, Presiding Judge, and Lisa White Hardwick and Anthony Rex Gabbert, Judges

Angela Anderson appeals the judgment of the Circuit Court of Morgan County, Missouri, dismissing her petition for failure to state a claim and denying her motion to amend her petition. The circuit court dismissed the petition, finding that Respondent Union Electric Company was immune from the present lawsuit pursuant to the dictates of Missouri's Recreational Use Act. On appeal, Anderson claims that the Act does not apply to the Respondent, because, as her petition alleged, Respondent charges a "use fee" for lake residents to "use and enjoy" the lake through their docks. Anderson also alleges that the "land" on which the accident giving rise to this case occurred is further excepted from the Act's protection because it is "non-covered land" as defined in the Act.

**REVERSED AND REMANDED FOR FURTHER PROCEEDINGS.**

**Division III holds:**

The Recreational Use Act protects a landowner from liability when it allows others to enter its land for recreational use without charge. Charge is defined by the Act to be "the admission price or fee asked by an owner of land." Although Respondent did not charge an admission fee for residents or guests to use its lake, Anderson's petition alleged that it did charge a user fee as a "condition or predicate for placement, maintenance, use and/or enjoyment of docks on the Lake of the Ozarks." A reasonable inference from the petition is that the Anderson family used its dock to access the lake on the date of the accident. The user fees charged for

residents' use and enjoyment of the docks on the lake distinguishes the present case from *Lonergan v. May*, 53 S.W.3d 122 (Mo. App. W.D. 2001), on which the circuit court relied in granting the motion to dismiss. Because the Recreational Use Act does not immunize the Respondent from suit, dismissal of the petition was erroneous. Anderson's appeal of the circuit court's denial of her motion to amend is moot.

**Opinion by: Mark D. Pfeiffer, Presiding Judge**

June 10, 2014

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