

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FOUR

SHANNON BROWN,)	
Successor Personal Representative for the)	No. ED100593
Estate of Daniel Kruse, and Personal)	
Representative for the Estate of)	Appeal from the Circuit Court
Sharon Kruse,)	of St. Louis County
)	
Appellant,)	Circuit Court No. 12SL-CC03169
)	
vs.)	
)	Honorable Steven H. Goldman
SEVEN TRAILS INVESTORS, LLC, et al.,)	
)	December 9, 2014
Respondents.)	

Shannon Brown (Plaintiff), as successor personal representative for the estate of Daniel Kruse and personal representative for the estate of Sharon Kruse, appeals the circuit court's order granting summary judgment for Seven Trails Investors, LLC and Madison Apartment Group, LP (Defendants) on Plaintiff's claims of negligence, nuisance, res ipsa, and gross negligence. In her sole point relied on, Plaintiff claims that the circuit court's summary judgment order is erroneous because Plaintiff presented evidence demonstrating the existence of a material factual dispute in that: (1) this "battle of the experts" is not a proper forum for summary judgment; (2) Plaintiff presented expert testimony to rebut Defendants' motion; (3) this matter is subject to the "sudden onset doctrine;" and (4) the nuisance claim does not require medical testimony.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.

Division Four Holds: Plaintiff cites no authority to support the claim that summary judgment is not permitted if the evidence adduced involves a "battle of the experts" and we deem this claim abandoned. The sudden onset rule is not applicable and expert medical testimony is necessary to establish causation as to Plaintiff's claims, including Plaintiff's nuisance claim. Plaintiff demonstrated a genuine issue of material fact with respect to whether the mold caused the injuries, but not with respect to whether the spider bite caused Daniel Kruse's wound. Accordingly, the circuit court erred by granting Defendants summary judgment as to claims related to the mold, but did not err by granting Defendants summary judgment as to claims related to the spider bite.

Opinion by: Philip M. Hess, J.
Lisa S. Van Amburg, P. J. and Patricia L. Cohen, J. concur.

Attorney for Appellant: David C. Knieriem

Attorney for Respondents: Timothy C. Sansone

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