

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

MATTHEW FOGERTY,)	
)	No. ED100947
Plaintiff/Appellant,)	
)	
v.)	Appeal from the Circuit Court
)	of the County of St. Louis
RICK ARMSTRONG,)	
)	
Defendant,)	
)	Honorable Mark D. Seigel
and)	
)	
LARRY MEYER,)	
)	Filed: September 20, 2016
Defendant/Respondent.)	

Matthew Fogerty (Appellant) appeals from the circuit court's entry of summary judgment in favor of Larry Meyer (Respondent) on Appellant's negligence claim.

On appeal, Appellant argues the circuit court erred in granting summary judgment in favor of Respondent because his petition alleged Respondent had a duty as his co-employee to operate an employer-provided tool in a reasonably safe manner, which is a duty not subsumed within their employer's non-delegable duty to provide a safe workplace.

REVERSED and REMANDED.

Division Two Holds: Respondent was not entitled to judgment as a matter of law because Appellant sufficiently asserted violations of Respondent's personal duty of care, separate and distinct from their employer's non-delegable duty to provide a safe workplace, for which he could be liable at common law. The circuit court erred in entering summary judgment in Respondent's favor.

Opinion by: Sherri B. Sullivan, P.J. Roy L. Richter, J., and Colleen Dolan, J., concur.

Attorneys for Appellant: Michael A. Gross and Richard T. Grossman
Attorneys for Respondent: Thomas J. Magee and Kathleen Schlef Hamilton

<p>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>
