

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DALE VAN LEEUWEN)	ED103392
)	
Appellant,)	Appeal from the Circuit Court
)	of St. Louis County
v.)	
)	14SL-CC03986
DANIEL J. LOWERY, DOROTHY)	
LOWERY, DENNIS J. LOWERY,)	
LSI-LOWERY SYSTEMS, INC., and)	
LOWERY HOLDINGS, LLC,)	Honorable Thomas W. DePriest, Jr.
)	
Respondents.)	FILED: March 22, 2016

Dale Van Leeuwen (Van Leeuwen) appeals from the trial court's grant of summary judgment in favor of Daniel J. Lowery, Dorothy Lowery, Dennis J. Lowery, LSI-Lowery Systems, Inc. (LSI), and Lowery Holdings, LLC (together, Defendants) in his derivative action on behalf of LSI.

REVERSED AND REMANDED.

Division Two Holds: The trial court erred in granting summary judgment to Defendants, because (1) Van Leeuwen's derivative action was not barred by the settlement and dismissal with prejudice of an earlier derivative action against the same Defendants on the same facts to which Van Leeuwen was not a party, in that the prior settlement and dismissal did not have the approval of the trial court and was not disclosed to the other non-party shareholder, Van Leeuwen, and thus the prior settlement and dismissal did not comply with Missouri Rule of Civil Procedure 52.09's court-approval and notice requirements; and (2) Van Leeuwen was a proper party to bring a derivative action on behalf of LSI and Defendants failed to show Van Leeuwen had an improper motive in bringing suit. These issues are dispositive and we do not address the remaining points on appeal.

Opinion by: Gary M. Gaertner, Jr., J.
Philip M. Hess, P.J. and Angela T. Quigless, J., concur.

Attorneys for Appellant: Robert Schultz and Ronald J. Eisenberg

Attorneys for Respondent: Christopher P. Kellet and Teresa Dale Pupillo

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.
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