

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

JOSEPH COSSEY, NINA ROBESON, next)	No. ED91219
Friend of DYLAN S. ROBESON and)	
ALYSSA E. ROBESON, and NINA)	
ROBESON as Personal Representative of the)	
Estate of JOHN STEVEN ROBESON,)	
Appellants,)	
)	
vs.)	Appeal from the Circuit Court of
)	the City of St. Louis
AIR SYSTEMS INTERNATIONAL, INC.,)	
Defendant, and FIELDS PETROLEUM, INC.,)	
Respondent, T.R. CONSULTING, INC., and)	
TONY RIECK, Defendants.)	Filed: January 20, 2009

OPINION SUMMARY

Plaintiffs Joseph Cossey and Nina Robeson, as personal representative of the estate of John Robeson and next friend of Dylan Robeson and Alyssa Robeson, appeal the trial court's grant of summary judgment to Defendant Fields Petroleum on the grounds that the independent contractor exception precludes Defendant's liability. We reverse.

REVERSED.

Division One Holds: The trial court erred in granting summary judgment to Fields on the basis of the independent contractor exception. Because the facts alleged by Plaintiffs demonstrated that Fields's liability arose from a negligent act or omission, and not from a dangerous condition existing on the premises, the facts support a claim of negligence.

Opinion by: Patricia L. Cohen, J. Kurt S. Odenwald, P.J. and Glenn A. Norton, J., concur.

Attorney for Appellants: Joel A. Poole, Louis C. Accurso and George W. Gilmore, Jr.

Attorney for Respondent: Daniel T. Rabbitt, Jr.

Attorney for Defendant: Kenneth L. Dement, Jr.

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.