

**OPINION SUMMARY**  
**MISSOURI COURT OF APEPALS – EASTERN DISTRICT**

DIVISION ONE

ALAN JOSEPH OLENDORFF,	)	ED92033
	)	
Appellant,	)	
	)	
vs.	)	Appeal from the Circuit Court of
	)	St. Louis County
	)	
ST. LUKE’S EPISCOPAL-	)	
PRESBYTERIAN HOSPITALS d/b/a	)	Honorable David L. Vincent, III
ST. LUKE’S HOSPITAL,	)	
	)	
Respondent,	)	
	)	
and	)	
	)	
SHIPPING UTILITIES, INC.,	)	
	)	
Defendant.	)	Filed: August 18, 2009

Alan Olendorff (Plaintiff) appeals from the trial court’s judgment dismissing his negligence action against St. Luke’s Hospital on the grounds that St. Luke’s was Plaintiff’s statutory employer within the meaning of Section 287.040 RSMo.

AFFIRMED.

Division One Holds: The trial court did not err in dismissing Plaintiff’s negligence action on the grounds that he was a statutory employee of St. Luke’s because: (1) Plaintiff was performing work within the usual business of St. Luke’s; and (2) Plaintiff failed to preserve the argument that he was engaged in a capital improvement project and therefore exempt from coverage under Section 287.040.2.

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

Attorneys for Appellant: John J. Hummel, Michael A. Gross  
Attorneys for Respondent: Jeffrey McPherson, David G. Ott, and Anna T. Selby

**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.**