

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**ANDRO TOLENTINO,**

**Appellant,**

**v.**

**STARWOOD HOTELS & RESORTS WORLDWIDE, INC., et al; WESTIN HOTEL  
MANAGEMENT, LP,**

**Respondent.**

---

DOCKET NUMBER WD75115

**Date: April 2, 2013**

---

Appeal from:  
Jackson County Circuit Court  
The Honorable W. Brent Powell, Judge

---

Appellate Judges:

Before Division Two: Lisa White Hardwick, Presiding Judge,  
Karen King Mitchell, Judge and James M. Smart, Jr., Senior Judge

---

Attorneys:  
Matthew J. O'Laughlin and Amy K. Maloney, Kansas City, MO for Appellant, for  
appellant.  
Elaine D. Koch, Thomas E. Nanney, and Timoth J. Davis, Kansas City, MO for  
Respondents, for respondent.

# MISSOURI APPELLATE COURT OPINION SUMMARY

## COURT OF APPEALS -- WESTERN DISTRICT

**ANDRO TOLENTINO**

**Appellant,**

**v.**

**STARWOOD HOTELS & RESORTS WORLDWIDE, INC., et al; WESTIN HOTEL  
MANAGEMENT, LP,**

**Respondent.**

WD75115

Jackson County

Before Division Two: Lisa White Hardwick, Presiding Judge,  
Karen King Mitchell, Judge and James M. Smart, Jr., Senior Judge

Andro Tolentino appeals the circuit court's grant of summary judgment in favor of Starwood Hotels & Resorts Worldwide, Inc. and Westin Hotel Management, L.P (collectively "Respondents"). He contends the court erred in determining that Respondents could not be liable as a joint employer under the Missouri Minimum Wage Law ("MMWL") for Tolentino's unpaid wages when it was the unforeseeable criminal acts of another joint employer that caused Tolentino's wages to fall below the minimum wage.

**AFFIRMED.**

Division Two Holds: The circuit court properly granted summary judgment in Respondents' favor. The only reason Tolentino was not fully compensated was because of another joint employer's unforeseeable and unlawful deductions from his paycheck. To hold Respondents liable for another joint employer's unforeseeable

criminal acts would be contrary to: (1) the MMWL's purpose to protect complying employers and the joint employment doctrine's purpose to prevent collusion between employers; (2) the principles of agency law requiring actual or apparent authority before a third party can hold a principal liable for the acts of its agent; and (3) strict liability case law and theory. Accordingly, we affirm the circuit court's judgment.

Opinion by: Lisa White Hardwick, Judge

**April 2, 2013**

**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**