

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE**

ABC SEAMLESS SIDING & WINDOWS, INC.,

Appellant,

v.

BRIAN K. WARD, et al.,

Respondents.

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**DOCKET NUMBER WD75361**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** March 5, 2013

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**APPEAL FROM**

The Circuit Court of Jackson County, Missouri  
The Honorable Jack R. Grate, Judge

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**JUDGES**

Division Two: Mitchell, P.J., and Newton and Hardwick, JJ.

CONCURRING.

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**ATTORNEYS**

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**MISSOURI APPELLATE COURT OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

ABC SEAMLESS SIDING & WINDOWS, )  
INC., )  
)  
Appellant, )  
v. )  
)  
BRIAN K. WARD, et al., )  
)  
Respondents. )

**OPINION FILED:**  
**March 5, 2013**

**WD75361**

**Jackson County**

**Before Division Two Judges:** Karen King Mitchell, Presiding Judge, and Thomas H. Newton and Lisa White Hardwick, Judges

ABC Seamless Siding & Windows, Inc. (ABC), appeals the trial court's grant of summary judgment in favor of Brian K. Ward; Brian K. Ward Agency, LLC; and Brian Ward Agency, Inc. (Ward), on ABC's claims for negligence, negligent misrepresentation, and breach of fiduciary duty, all premised upon Ward's allegedly erroneous advice to one of ABC's owners, Christopher Scott Martin, indicating that ABC need not obtain workers' compensation insurance.

**AFFIRMED.**

**Division Two holds:**

1. The corporate exemption provided in section 287.090.5 of the Workers' Compensation Law applies to construction industry employers.
2. Subcontractors are not considered in determining whether the corporate exemption is available to a particular business.
3. As with claims of negligent misrepresentation, a party seeking relief on claims of general negligence and breach of fiduciary duty premised upon the provision of allegedly erroneous advice must demonstrate justifiable reliance upon that advice in order to prove causation.

4. A party cannot demonstrate justifiable reliance where the party conducts an independent investigation and the independent investigation accurately addresses the subject matter of the alleged misrepresentation or erroneous advice.
5. Here, ABC conducted its own independent investigation by contacting the Missouri Division of Workers' Compensation. After receiving information indicating that ABC fell within the Workers' Compensation Law and that it qualified for the corporate exemption, ABC sought and obtained the corporate exemption. Consequently, ABC could not demonstrate justifiable reliance on any advice allegedly provided by Ward.

**Opinion by: Karen King Mitchell, Presiding Judge**

March 5, 2013

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