# MISSOURI COURT OF APPEALS
# WESTERN DISTRICT

**YURIY MATSYUK,**

**Appellant,**

**v.**

**VIKTOR PANTYUKHIN and LYUBOV PANTYUKHN,**

**Respondents.**

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DOCKET NUMBER WD82414

**Date: February 25, 2020**

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Appeal from:
Pettis County Circuit Court
The Honorable Robert L. Koffman, Judge

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Appellate Judges:
Division Three: Lisa White Hardwick, P.J., Alok Ahuja and Anthony Rex Gabbert, JJ.

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Attorneys:
Matthew B. Uhrig, Ashland for appellant
Bradley R. Hansmann, St. Louis for respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

YURIY MATSYUK, Appellant,
v.
VIKTOR PANTYUKHIN and LYUBOV PANTYUKHN, Respondents.

WD82414 Pettis County

Before Division Three Judges: Lisa White Hardwick, P.J., Alok Ahuja and Anthony Rex Gabbert, JJ.

Yuriy Matysyuk was injured in an automobile accident in October 2014 while riding as a passenger in a vehicle driven by Igor Pantyukhin. The vehicle was owned by Igor's father. Matysyuk sued Igor's parents, Viktor and Lyubov Pantyukhin (collectively, the "Pantyukhins"), alleging that they had negligently entrusted the accident vehicle to their son. The circuit court granted the Pantyukhins' motion for summary judgment. It found that the uncontroverted facts failed to establish that Igor was incompetent to drive due to habitual recklessness, and that Matysyuk would therefore not be able to prove an essential element of his negligent entrustment claim. Matysyuk appeals.

AFFIRMED.

Division Three holds:

Matysyuk first argues that the circuit court should have granted his motion to stay proceedings on the Pantyukhins' motion for summary judgment, so that he could conduct additional discovery. Matysyuk only moved to stay the summary judgment proceeding after the court held a hearing on the Pantyukhins' motion. At that point, the motion had been pending for more than 4 months, the parties had fully briefed and argued it, and the circuit court had taken the motion under advisement. The circuit court did not abuse its discretion by denying a stay motion filed so late.

Matysyuk also challenges the merits of the circuit court's ruling granting the Pantyukhins summary judgment on his negligent entrustment claim. He contends that the evidence creates a genuine issue of material fact whether Igor Pantyukhin was incompetent to drive the Pantyukhins' vehicle due to Igor's habitually reckless driving. We disagree. Matysyuk presented evidence of a single accident caused by Igor's negligence in 2011, more than three years before the accident in which

Matysyuk was injured. This single accident is insufficient to establish Igor's habitual recklessness. Matysyuk also refers to Igor's citation for seatbelt-related traffic offenses in 2012, two years before the current accident. These citations are too remote in time, and too isolated, to establish habitual recklessness. Finally, Matysyuk refers to the fact that Igor was specifically excluded from coverage on the Pantyukhins' automobile insurance liability policy. But Igor's failure to maintain required insurance, standing alone, does not establish his incompetence to drive. Matysyuk failed to present any evidence as to *why* Igor was excluded from the Pantyukhin's automobile insurance, which may have been relevant to establish his incompetence.

**Opinion by: Alok Ahuja, Judge** February 25, 2020

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