Summary of SC98227, *State ex rel. Woodco Inc. v. The Honorable Jennifer Phillips*
Proceeding originating in the Jackson County circuit court, Judge Jennifer Phillips
Argued and submitted June 23, 2020; opinion issued July 28, 2020

Attorneys: Woodco was represented by Richard F. Lombardo and Michael F. Barzee of Shaffer Lombardo Shurin PC in Kansas City, (816) 931-0500. The construction company was represented by Peter G. Collins and J. Philip Davidson of Hinkle Law Firm LLC in Overland Park, Kansas, (913) 234-6100; and Jenifer W. Svancara and Jeffery C. Baker of Sanders, Warren, Russell & Scheer LLP in Overland Park, Kansas, (913) 234-6100. The structural engineer was represented by Michael L. Hughes of McCormick Gordon Bloskey & Poirer PA in Overland Park, Kansas; (913) 322-4061; the supplier was represented by Michael J. Gorman and Jason L. Buchanan of McDowell Rice Smith Buchanan PC in Kansas City, (816) 753-5400; the architect was represented by Michael G. Norris and David J. Welder of Norris Keplinger Hicks & Welder LLC in Overland Park, Kansas, (913) 663-2000; and the framer was represented by Bradley C. Nielson and Christopher Brackman of Franke Schultz & Mullen PC in Kansas City, (816) 421-7100.

This summary is not part of the opinion of the Court. It has been prepared by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A general contractor seeks a permanent writ prohibiting the circuit court from ordering masons joined as necessary parties in a lawsuit involving defects in a construction project. In a 7-0 decision written by Judge Mary R. Russell, the Supreme Court of Missouri makes permanent its preliminary writ of prohibition. Joinder of the masons is not required under the applicable rule because they need not be joined for complete relief to be afforded for the asserted claims and because their absence as parties would not result in inconsistent obligations to existing parties. Judge William W. Francis Jr. – a judge on the Missouri Court of Appeals, Southern District – participated in this case in place of Judge W. Brent Powell.

Facts: As part of a project to build an independent senior living facility in Independence, an owner entered into contracts with an architectural firm and with Woodco Inc. as the general contractor. The architectural firm entered into a contract with a structural engineer, and Woodco entered into contracts with a framer, a supplier and masons. Woodco also entered into a contract with a construction company to provide quality control for the project. After deficiencies in the project's construction emerged, the owner and Woodco entered into a settlement agreement assigning Woodco all of the owner's rights, claims and interest against third parties arising from or relating to the project's defects. Woodco then sued the architect, structural engineer, framer, supplier and construction company, raising certain contract and tort claims. Most defendants then moved to add the masons as defendants under Rule 52.04, alleging they were necessary parties. The circuit court sustained the motion. Woodco seeks to make permanent this Court's preliminary writ prohibiting the circuit court from joining the masons as necessary parties.

PRELIMINARY WRIT MADE PERMANENT.

Court en banc holds: Because neither prong of Rule 52.04(a) requires the masons to be joined, the circuit court abused its discretion in sustaining the defendants' motions to join the masons as defendants. Joinder is not necessary under the first prong because joinder of the masons is not required to afford complete relief for the asserted claims, not is it necessary under the second prong because the masons' absence as parties would not result in inconsistent obligations to existing parties. The masons are not parties to the contracts on which Woodco is suing; even if they are joint tortfeasors or Woodco's tort claims are derivative of work they performed, the masons are not required as parties for Woodco's asserted contract or tort claims to be decided fully; and courts should not consider the possibility of subsequent actions by an existing party to seek contributions from a nonparty to require the nonparty's presence in the initial action.