OPINION SUMMARY
MISSOURI COURT OF APPEALS—EASTERN DISTRICT
DIVISION ONE

JAMES P. KAHN,	)	No. ED108947
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of St. Francois County
vs.	)	16SF-CC00234
	)	
TRISTON BLACKWELL,	)	Honorable Wendy Wexler-Horn
	)	
Respondent.	)	FILED: November 17, 2020

James P. Kahn ("Kahn") appeals from the trial court's "Order and Judgment" ("Judgment") finding in his favor, and against Triston Blackwell ("Blackwell"), on Kahn's negligence claim against Blackwell, claiming that the trial court erred in denying his Motion for New Trial.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.

Division One Holds: (1) Kahn's first point on appeal, which alleged juror misconduct stemming from improper contact between Blackwell and two jurors, was waived because although Kahn and his counsel either witnessed the alleged misconduct when it occurred or knew of the alleged misconduct soon thereafter, they did not raise the issue with the trial court before the jury rendered its verdict; and (2) The trial court abused its discretion in ordering in its Judgment that "each party [was] to bear their own costs" because Kahn was the prevailing party at trial such that he was entitled to recover at least some of his costs pursuant to Rule 77.01 and Section 514.060 RSMo 2000.

Opinion by: Mary K. Hoff, J.

Colleen Dolan, P.J., and Robert M. Clayton III, J., Concur.

Attorneys for Appellant: Mark Thomas Rudder
Steve Wolf, Co-Counsel

Attorney for Respondents: James E. Godfrey, Jr.
Kerry Bridget Banahan, Co-Counsel

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.