OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

BARBARA MILLER, AS GUARDIAN OF JAMELA PERRY, SISTER OF DECEASED, JAMES QUINN, Appellant, vs. FRED BUCY AND KASEY BAKER, Respondents.	)	No. ED107055 Appeal from the Circuit Court of St. Louis County Honorable John D. Warner, Jr. FILED: February 15, 2022

Barbara Miller ("Miller") appeals from the circuit court's judgment dismissing her First Amended Petition (the "Petition") against Fred Bucy ("Supervisor") and Kasey Baker ("Driver") (collectively, "Co-Employees") for the wrongful death of James Quinn ("Quinn"). Co-Employees moved to dismiss the wrongful-death claim on the basis that Section 287.120.1 of the Workers' Compensation Law prevented Miller from holding them personally liable for breaches of the employer's nondelegable duties of care to Quinn. The circuit court granted Co-Employees' motion to dismiss the Petition. In two points on appeal, Miller argues the circuit court erred in granting dismissal because the Petition sufficiently alleged that Co-Employees owed Quinn personal duties of care, separate and distinct from the nondelegable duties of care owed by the employer.

AFFIRMED.

DIVISION FOUR HOLDS: The Petition alleges that Supervisor and Driver committed affirmative negligent acts while discharging the employer's duty to provide a safe work environment in the operation of a trash and recycling truck. Because the Petition fails to plead common law liability of a co-employee that is separate and distinct from the employer's nondelegable duty of care, we affirm the judgment of the circuit court dismissing the Petition.

Opinion by: Kurt S. Odenwald, P.J.
Colleen Dolan, J., and Roy L. Richter, Sr.J., concur.

Attorney for Appellant: Gary K. Burger, Jr.

Attorneys for Respondents: Charles Z. Vaughn and Brent L. Salsbury

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.