

OPINION SUMMARY
MISSOURI COURT OF APPEALS—EASTERN DISTRICT

DIVISION FIVE

JAMES O. GRACE, et al.,)	No. ED94746
Individually and on behalf of all others)	
similarly situated,)	
Appellants,)	
)	Appeal from the Circuit Court
)	of St. Louis County
vs.)	09SL-CC02502
)	
ST. LOUIS COUNTY, IESI MO CORP.,)	
VEOLIA ES SOLID WASTE MIDWEST,)	Honorable Colleen Dolan
LLC, AND ALLIED SERVICES, LLC,)	
Respondents.)	FILED: May 3, 2011

Before Gary M. Gaertner, Jr., P.J., Mary K. Hoff, J. and Patricia L. Cohen, J.

PER CURIAM

James O. Grace, David J. Birtley, Lucille DeGeare, and Ana McDonald, individually and on behalf of all those similarly situated, (collectively referred to as the Residents) appeal from the trial court's judgment dismissing the Residents' class action petition alleging St. Louis County (the County), IESI MO Corporation, Veolia ES Solid Waste Midwest, LLC, and Allied Services, LLC, (collectively referred to as the Waste Haulers) violated the Hancock Amendment and the Missouri Merchandising Practices Act (MPA) and wrongfully received and retained the Residents' money for services the Residents never requested.

CAUSE ORDERED TRANSFERRED TO THE MISSOURI SUPREME COURT.

Division Five Holds: We would affirm the trial court's judgment because (1) the fee for recycling service, which was included in the waste removal bill the Residents received from the Waste Haulers, was not subject to the Hancock Amendment in that the fee was not a tax; (2) the Waste Haulers did not engage in unfair practices under the MPA by charging the Residents for the recycling service the Waste Haulers provided; and (3) the Waste Haulers did not improperly collect from the Residents and unjustly retain the fees for the recycling service the Waste

Haulers provided. However, because of the general interest and importance of the questions involved, we order this cause transferred to the Missouri Supreme Court, pursuant to Rule 83.02.

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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.