

**OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

JASON D. MORGAN,	) ED97130
	)
Plaintiff/Appellant,	) Appeal from the Circuit Court
	) of St. Louis County
v.	)
	)
UNION PACIFIC RAILROAD CO.,	) Honorable James R. Hartenbach
	)
Defendant/Respondent.	) Filed: March 13, 2012

Jason D. Morgan (Appellant) appeals from the summary judgment the trial court entered in favor of Union Pacific Railroad (Respondent) on Appellant's direct negligence claim against Respondent for failure to provide a safe workplace under the Federal Employers' Liability Act (FELA), 45 U.S.C. § 51.1 (2006), resulting in injuries Appellant sustained after being assaulted by his co-employee and manager Todd Foster (Foster).

AFFIRMED.

Division Three Holds: Respondent is not liable in this case under FELA 45 U.S.C. § 51.1 because there was no showing that Respondent should have foreseen the danger in order to have taken steps to prevent it and Foster's unforeseeable assaultive behavior was outside the scope of his employment and not in furtherance of Respondent's business.

Opinion by: Sherri B. Sullivan, J. Robert G. Dowd, Jr., P.J. and Mary K. Hoff, J., concur.

Attorneys for Appellant: Kenneth E. Barnes, Jason D. Kander and Alan S. Mandel  
Attorneys for Respondent: Nicholas J. Lamb, Matthew A. Caraway and David A. Dick

<p><b>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.</b></p>
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