

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

LAWRENCE MICKEY,)	No. ED98647
Respondent,)	
)	
vs.)	Appeal from the Circuit Court of
)	the City of St. Louis
BNSF RAILWAY COMPANY and)	
SAFECO INSURANCE COMPANY OF)	Honorable John J. Riley
AMERICA,)	
Appellants.)	Filed: June 11, 2013

BNSF Railway Company (BNSF) and Safeco Insurance Company of America (Safeco) appeal the judgment of the Circuit Court of the City of St. Louis: (1) denying their motion for a finding that BNSF satisfied in full a judgment in favor of Lawrence Mickey (Plaintiff) on his negligence claim; and (2) granting Plaintiff's motion for judgment on a supersedeas bond. The trial court entered judgment against Safeco, the surety on the supersedeas bond, for the unsatisfied portion of the judgment. BNSF and Safeco argue that the trial court erred because BNSF satisfied the underlying judgment in full by paying Plaintiff the judgment less an amount representing the portion of employment taxes Plaintiff allegedly owed under the Railroad Retirement Tax Act, 26 U.S.C. §§ 3201-3241 ("railroad employment taxes").

AFFIRMED.

Division Four Holds: BNSF neither paid the judgment in full nor asserted that Plaintiff either released BNSF from its obligation to pay the full amount or agreed that BNSF could satisfy the judgment in any other manner. Therefore, the trial court did not err in denying the motion of BNSF and Safeco for entry of satisfaction of judgment. Given BNSF's nonperformance of its obligation to satisfy the judgment, the trial court did not err in entering judgment against Safeco as BNSF's surety on the supersedeas bond.

Opinion by: Patricia L. Cohen, P.J.
Kurt S. Odenwald, J., and Robert M. Clayton III, J., concur.

Attorney for Appellants: William A. Brasher

Attorney for Respondent: Michael A. Wolff

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