

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

MARQUAL R. McGEE, a Minor, by and)	No. ED99030
through his Next Friend and Mother,)	
Ray McGee, Respondents,)	Appeal from the City of
)	St. Louis Circuit Court
vs.)	Honorable Joan L. Moriarty
)	
CITY OF PINE LAWN, Appellant.)	Filed: July 16, 2013

The defendant, the City of Pine Lawn, appeals from the judgment entered by the Circuit Court of the City of St. Louis denying its motion to set aside a default judgment awarding \$500,000 in damages to the plaintiff, Marqual McGee.

AFFIRMED IN PART AND REVERSED AND REMANDED IN PART.

DIVISION FOUR HOLDS: We affirm the motion court’s denial of the City’s motion to set aside the default judgment as to the issue of liability. However, given the lack of probative evidence regarding damages, the motion court plainly erred when it denied the City’s motion to set aside the default judgment as to the issue of damages, and a manifest injustice would occur if the damage award were allowed to stand. We reverse the damage award and remand for an evidentiary hearing on the issue of damages.

Opinion by: Lawrence E. Mooney, P.J. Patricia L. Cohen, J., and Kurt S. Odenwald, J., concur.

Attorneys for Appellant: Donnell Smith and Christopher Carter

Attorney for Respondents: Joseph K. Robbins

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.