

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

FREDERICK BEATY and BARBARA BEATY,

Appellants,

v.

**ST. LUKE'S HOSPITAL OF KANSAS CITY, DESMOND J. YOUNG, M.D.,
CARDIOVASCULAR CONSULTANTS, P.C., and MARTIN HENRY ZINK, M.D.,**

Respondents.

DOCKET NUMBER WD69441

Date: November 17, 2009

Appeal from:
Jackson County Circuit Court
The Honorable Thomas C. Clark, Judge

Appellate Judges:
Division One: Alok Ahuja, Presiding Judge, James M. Smart and Lisa White
Hardwick, Judges

Attorneys:
Sherry D. DeJanes, Esq., Kansas City, MO, for appellant.
Marc K. Erickson, Esq., and Jeffrey M. Kuntz, Esq., for St. Lukes and D.J. Young;
Timothy M. Aylward, Esq., and Jessica J. Shaw, Esq., for Cardiovascular Const.
and MH Zink, Kansas City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY
COURT OF APPEALS -- WESTERN DISTRICT

FREDERICK BEATY and BARBARA BEATY

Appellants,

v.

**ST. LUKE'S HOSPITAL OF KANSAS CITY, DESMOND J. YOUNG, M.D.,
CARDIOVASCULAR CONSULTANTS, P.C., and MARTIN HENRY ZINK, M.D.,**
Respondents.

WD69441

JACKSON COUNTY

Before Division One Judges: Alok Ahuja, Presiding Judge, James M. Smart
and Lisa White Hardwick, Judges

Frederick and Barbara Beaty appeal a judgment denying their medical negligence claims against the defendants, St. Luke's Hospital of Kansas City, Dr. Desmond Young, Cardiovascular Consultants, P.A., and Dr. Martin Zink III. The Beatys contend: (1) the circuit court erred in allowing a treating physician to testify as a defense expert after the physician had an *ex parte* contact with defense counsel; and (2) the circuit court erred in restricting their own expert from testifying about a recent physical examination of Mr. Beaty that was not disclosed to the defendants prior to trial.

AFFIRMED.

Division One holds: (1) the circuit court properly admitted testimony from a treating physician, who had *ex parte* contacts with defense counsel, because the

physician did not disclose “protected health information” in violation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA); and (2) the Beatys suffered no prejudice from the partial exclusion of their expert witness’s testimony because they acknowledged that the results of the physical examination did not change the expert’s previously disclosed opinion.

Opinion by: Lisa White Hardwick, Judge

November 17, 2009

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.