

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

RICHARD ROBINSON, et al.,

Appellant,

v.

CHERYL HOOKER,

Respondent.

**DOCKET NUMBER WD71207
MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

Date: August 3, 2010

Appeal from:
Jackson County Circuit Court
The Honorable David M. Byrn, Judge

Appellate Judges:
Division One: Lisa White Hardwick, Presiding Judge, James M. Smart, Jr. and Mark D. Pfeiffer, Judges

Attorneys:
Patrick B. Starke, Esq., Blue Springs, for appellant.
Jamie L. Cook, Esq., Kansas City, for respondent.

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

RICHARD ROBINSON, et al.

Appellant,

v.

CHERYL HOOKER,

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WD71207

Jackson County

Before Division One Judges: Lisa White Hardwick, Presiding Judge,

James M. Smart, Jr. and Mark D. Pfeiffer, Judges

Richard Robinson appeals the dismissal of his negligence claim against his co-employee, Cheryl Hooker, following a workplace accident. Robinson contends the circuit court erred in determining his negligence claim was barred by the exclusivity provisions of the Workers' Compensation Act and the doctrines of *res judicata* and official immunity.

REVERSED AND REMANDED.

Division One holds: (1) The employer immunity under Section 287.120 of the Workers' Compensation Act can no longer be extended to co-employees under principles of strict construction. Accordingly, the circuit court erred in dismissing Robinson's negligence claim against Hooker on the basis of her status as a co-employee. (2) The negligence claim was not barred by the doctrine of *res judicata*

because Robinson could not have sued Hooker personally in the workers' compensation proceeding. (3) The negligence claim was not barred by the doctrine of official immunity because Hooker failed to establish that she was a public official and that she was performing a discretionary act at the time Robinson was injured. The judgment dismissing Robinson's petition is reversed and the cause remanded.

Opinion by: Lisa White Hardwick, Judge

August 3, 2010

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