

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

BRODY HAYS, et al.,

Appellants,

v.

FRANCIS M. "PETE" ROYER, et al.,

Respondents.

DOCKET NUMBER WD74772

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: September 18, 2012

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable James F. Kanatzer, Judge

JUDGES

Division Three: Howard, P.J., and Mitchell and Martin, JJ.

CONCURRING.

ATTORNEYS

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

BRODY HAYS, et al.,)
)
) **Appellants,**)
) **v.**) **OPINION FILED:**
) **September 18, 2012**
)
) **FRANCIS M. "PETE" ROYER, et al.,**)
)
) **Respondents.**)

WD74772

Jackson County

Before Division Three Judges: Victor C. Howard, Presiding Judge, and Karen King Mitchell and Cynthia L. Martin, Judges

This is a negligent entrustment case. The issue is whether an trustee may have a viable claim against the entrustor when no third party was injured and when the trustee's claim is dependent upon his own negligence (and not some independent negligent act of the entrustor).

REVERSED AND REMANDED.

Division Three holds:

- (1) A cause of action for negligent entrustment may be maintained by the trustee.
- (2) Public policy does not bar such an action where the trustee was injured due to his own act of drunk driving.
- (3) The petition here, in which plaintiffs (the spouse and child of decedent) alleged that the defendant negligently entrusted a vehicle to decedent (an individual known to habitually drink alcohol during work hours and drive while intoxicated), who was later involved in a motor vehicle accident while intoxicated that resulted in his death, was improperly dismissed for failure to state a claim upon which relief could be granted.

Opinion by: Karen King Mitchell, Judge

September 18, 2012

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