

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**CITY OF LEE'S SUMMIT, MISSOURI,
APPELLANT**

vs.

**MISSOURI PUBLIC ENTITY RISK MANAGEMENT,
RESPONDENT**

DOCKET NUMBER WD74967

DATE: DECEMBER 26, 2012

Appeal from:

The Circuit Court of Cole County, Missouri
The Honorable Jon E. Beetem, Judge

Appellate Judges:

Division Three: Alok Ahuja, P.J., Victor C. Howard and Cynthia L. Martin, JJ.

Attorneys:

Catherine C. Whittaker, for Appellant

Michael G. Berry, for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

CITY OF LEE'S SUMMIT, MISSOURI, APPELLANT

v.

MISSOURI PUBLIC ENTITY RISK MANAGEMENT, RESPONDENT

WD74967

Cole County, Missouri

Before Division Three: Alok Ahuja, P.J., Victor C. Howard and Cynthia L. Martin, JJ.

The City of Lee's Summit, Missouri, (City) appeals from summary judgment entered in favor of Missouri Public Entity Risk Management (MOPERM) declaring that MOPERM had no duty to defend or indemnify the City in a § 1983 suit brought by Theodore White against the City's employee. The judgment is affirmed.

AFFIRMED.

Division Three holds:

Where the underlying criminal charges were filed against White in April 1998, his injury occurred for insurances purposes in 1998 and did not occur during the policy periods July 1, 2001, to January 1, 2006. Accordingly, MOPERM had no duty to defend or indemnify the City against White's lawsuit since the occurrence arose outside the policy period.

Opinion by: Victor C. Howard, Judge

Date: December 26, 2012

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