

**MODIFIED: April 29, 2014**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

CRAIG HERRINGTON

Respondent

v.

MEDEVAC MEDICAL RESPONSE, INC.

Appellant

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DOCKET NUMBER WD75618

DATE: March 18, 2014

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Appeal From:

Circuit Court of Jackson County, MO  
The Honorable Jack Richard Grate, Judge

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Appellate Judges:

Division Three  
Anthony R. Gabbert, P.J., Victor C. Howard, and Thomas H. Newton, JJ.

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Attorneys:

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

CRAIG HERRINGTON, Respondent, v.  
MEDEVAC MEDICAL RESPONSE, INC., Appellant

**WD75618**

**Jackson County**

Before Division Three Judges: Gabbert, P.J., Howard, and Newton, JJ.

Herrington sued Medevac for damages based on negligence. Herrington was injured on a chartered bus when it made a sudden stop at an intersection to avoid colliding with a Medevac ambulance. The ambulance drove through a red light, with its lights flashing but no siren. The bus had the green light. Herrington was holding the seat backs as he walked down the aisle to his seat from the bus restroom. The sudden stop caused him to lurch forward, fall, and sustain injuries that prevented him from returning to full-time work.

At the jury trial, Medevac offered instructions on comparative fault, claiming that Herrington's conduct contributed to cause the damages he sustained. The trial court refused those jury instructions. Herrington offered instructions on negligence for, *inter alia*, failure to keep a careful lookout. Over Medevac's objection, the trial court submitted the instructions to the jury. The jury awarded damages to Herrington. Medevac filed a motion for a new trial, which the trial court denied. Medevac appeals.

**AFFIRMED.**

**Division Three Holds:**

Medevac raises two points on appeal. In the first point, Medevac argues that the trial court erred in refusing its instruction for comparative fault. Medevac claims that substantial evidence existed for the jury to find that Herrington's choice to use the restroom on a moving bus in city traffic constituted conduct that contributed to his injuries from the sudden stop the bus made to avoid a collision. No evidence has been presented from which a jury could find that Herrington's conduct contributed to his injuries. Point one is denied.

In the second point, Medevac argues that the trial court erred in submitting a negligence instruction on the ground that the ambulance failed to keep a careful lookout. The jury could reasonably infer that, had the ambulance briefly stopped or used its siren, the bus would have had additional notice, thereby eliminating the need to brake so abruptly. Herrington has established each alternative in the "careful lookout" jury instruction with substantial evidence. Point two is denied.

Opinion by Thomas H. Newton, Judge

March 18, 2014

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