

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

UNION ELECTRIC COMPANY D/B/A AMEREN MISSOURI,

Respondent

v.

A.P. READ HOMES, LLC.

Appellant

DOCKET NUMBER WD78624

DATE: March 22, 2016

Appeal From:

Circuit Court of Adair County, MO
The Honorable Kristie Jean Swaim, Judge

Appellate Judges:

Division Three
Joseph M. Ellis, Sr. J., Presiding, Thomas H. Newton, and James Edward Welsh, JJ.

Attorneys:

Lance McClamroch, Kirksville, MO

Counsel for Appellant

Attorneys:

Stephen Barber, St. Louis, MO

Counsel for Respondent

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

**UNION ELECTRIC COMPANY D/B/A AMEREN MISSOURI,
Respondent, v. A.P. READ HOMES, LLC, Appellant**

WD78624

Adair County

Before Division Three Judges: Ellis, Sr. J. Presiding, Newton, and Welsh, JJ.

A.P. Read Homes appeals the circuit court's judgment finding it liable for causing damages to an underground utility line owned by Union Electric Company ("Ameren"), pursuant to Missouri's Underground Facility Safety and Damages Prevention Act, §§ 319.010 - .050, RSMo.

Affirmed.

Division Three holds:

The circuit court did not err in finding in favor of Ameren on its claim. Deferring to the circuit court's resolution of conflicting evidence and assessment of witness credibility, and recognizing that a plaintiff may prove causation by circumstantial evidence, there was sufficient evidence to support the finding that Read Homes damaged Ameren's utility line.

The circuit court did not abuse its discretion in rejecting Read Homes' post-trial motion to reopen the case for additional evidence. The evidence that Read Homes sought to present could have, and should have, been presented at trial. "Courts cannot reopen cases merely because a party has had a change of heart regarding the importance of evidence it chose not to introduce when it first had the opportunity to do so." *Forney v. Mo. Bridge & Concrete, Inc.*, 112 S.W.3d 471, 475-76 (Mo. App. 2003).

Opinion by James Edward Welsh, Judge

March 22, 2016

* * * * *

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