

SUPREME COURT OF MISSOURI

State ex rel. Corinne Reif v. The Honorable Michael T. Jamison

271 S.W.3d 549 (Mo. banc 2008) · No. SC 88987 · Decided December 16, 2008

SUMMARY

The Supreme Court of Missouri held that a corporate representative designated under Missouri Rule 57.03(b)(4) must testify about matters known or reasonably available to the organization, not merely matters within the representative's personal knowledge. The court concluded that the circuit court abused its discretion by denying a motion to compel production of a substitute representative and made the alternative writ of mandamus peremptory.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Richard B. Teitelman
JURISDICTION	Missouri
DECIDED	December 16, 2008
DOCKET	SC 88987
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Relator sought a writ of mandamus directing the circuit court to compel Missouri Baptist Medical Center to produce a substitute corporate representative prepared to testify about matters known or reasonably available to the organization. The Supreme Court of Missouri reviewed the circuit court's discovery ruling and made its alternative writ of mandamus peremptory.
STANDARD OF REVIEW	A writ of prohibition or mandamus is appropriate to correct discovery rulings that exceed the court's jurisdiction or constitute an abuse of discretion. The Supreme Court found that the circuit court abused its discretion.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Missouri sitting en banc
PARTIES	State ex rel. Corinne Reif v. The Honorable Michael T. Jamison

TOPICS

discovery dispute

civil procedure

appellate procedure

standard of review

PRACTICE AREAS

civil procedure

discovery

mandamus

QUESTIONS PRESENTED

1. Whether a corporate representative designated under Missouri Rule 57.03(b)(4) must testify about matters known or reasonably available to the organization, rather than limiting testimony to the representative's personal knowledge.
2. Whether the circuit court abused its discretion by overruling the motion to compel production of a substitute corporate representative.

HOLDINGS

1. A corporate representative designated for deposition under Rule 57.03(b)(4) must testify about matters known or reasonably available to the organization and may not avoid testimony on the noticed topics merely by asserting a lack of personal knowledge.
2. Mandamus relief was warranted because the circuit court abused its discretion by overruling the motion to compel a substitute corporate representative prepared to testify about the defendant's organizational knowledge.

KEY QUOTATIONS

"The purpose of deposing a corporate representative is not to uncover the representative's personal knowledge or recollection of the events at issue. Instead, Rule 57.03(b)(4) required the representative to testify regarding the Defendant's knowledge of these matters." (551)

"The rule provides that the corporate representative 'shall testify as to matters known or reasonably available to the organization.'" (551)

FACTUAL BACKGROUND

Corinne Reif brought a wrongful-death action alleging that her husband died from injuries sustained after tripping over an unmarked electrical box on the floor of a rehabilitation facility owned by Missouri Baptist Medical Center. Reif noticed the deposition of a corporate representative regarding the defendant's knowledge of the fall and the reason for the electrical box's presence. The designated representative claimed no personal knowledge, did not review documents, and did not consult the defendant to establish its position, even though defendant employees had witnessed the fall and the box was on defendant's premises.

PROCEDURAL HISTORY

Corinne Reif filed a wrongful-death action against Missouri Baptist Medical Center and noticed the deposition of a corporate representative under Missouri Rule 57.03(b)(4). The designated representative testified only that she lacked personal knowledge of two noticed topics and had not reviewed documents or consulted with the organization. Reif moved to compel production of a substitute representative prepared to testify about the

organization's knowledge, but the circuit court overruled the motion. The Supreme Court issued an alternative writ and made it peremptory.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The circuit court was required to compel Missouri Baptist Medical Center to produce a substitute corporate representative prepared to testify regarding matters known or reasonably available to the organization concerning the identified deposition topics.

CASES CITED

- State ex rel. White v. Gray, 141 S.W.3d 460, 463 (Mo. App. 2004)
- State ex rel. Atchison, Topeka & Santa Fe R.R. v. O'Malley, 888 S.W.2d 760, 761 (Mo. App. 1994)
- State ex rel. Chassaing v. Mummert, 887 S.W.2d 573, 576 (Mo. banc 1994)
- State ex rel. Plank v. Koehr, 831 S.W.2d 926, 928 (Mo. banc 1992)
- Annin v. Bi-State Development Agency, 657 S.W.2d 382, 386 (Mo. App. 1983)
- State ex rel. Dixon v. Darnold, 939 S.W.2d 66, 69 (Mo. App. 1997)
- State ex rel. Terry v. Holtkamp, 330 Mo. 608, 51 S.W.2d 13, 16 (1932)