

**OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

VINCENT HEGGER (DECEASED)	)	ED106278
	)	
Appellant,	)	Appeal from the Labor and Industrial
	)	Relations Commission
v.	)	
	)	
VALLEY FARM DAIRY COMPANY,	)	
	)	
Respondent.	)	Filed: May 21, 2019

Vincent Hegger (Hegger) died in 2015 from mesothelioma caused by exposure to asbestos while working at Valley Farm Dairy Company. Prior to his death, Hegger filed a claim for workers' compensation benefits. Hegger and then his children (Claimants) sought benefits pursuant to Section 287.200.4 which became effective January 1, 2014, and provides benefits for occupational diseases due to toxic exposure that results in permanent total disability or death. After an evidentiary hearing, an administrative law judge (ALJ) determined that a company that is no longer in existence as of January 1, 2014, such as Valley Farm Dairy Co., cannot "elect to accept" coverage under the language of Section 287.200.4(3) and, therefore denied Claimants benefits under the statute. The Labor and Industrial Relations Commission (Commission) affirmed and incorporated the ALJ's decision. Claimants appeal.

REVERSED AND REMANDED.

Division Four Holds: The Commission erred because (1) Valley Farm Dairy Co. elected to accept mesothelioma liability under Section 287.200.4(3)(a) under strict construction of that subsection, and (2) Valley Farm Dairy Co. was not required to provide the Division of Workers' Compensation with notice of an election to accept liability for the benefits in Section 287.200.4(3).

Opinion by: Gary M. Gaertner, Jr., J.  
Colleen Dolan, J., concurs.  
Kurt S. Odenwald, P.J. dissents in a separate opinion.

Attorney for Appellant: Thomas L. Stewart  
Attorneys for Respondent: Christopher T. Archer and Jaudon Godsey

<p><b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</b></p>
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