FILED
MAY 24 1990
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 0-111 / 89-1176

JOHN SHAW, Administrator of the Estate of WILLIAM J. SHAW, Deceased; **LAURIE A. WILLIS**, Administrator of the Estate of **DEAN DENNIS WILLIS** a/k/a **DEAN D. WILLIS**, Deceased, 269

Plaintiffs-Appellants,

vs.

SOO LINE RAILROAD CO., JOSEPH C. SPINOSO,

Defendants,

SWISS VALLEY FARMS CO., INC. f/k/a **MISSISSIPPI VALLEY MILK PRODUCERS ASSOC.**, and

MIKE'S LINES, INC.,

Defendants-Appellees.

Appeal from the Iowa District Court for Clayton County, John Bauercamper, Judge.

Plaintiffs appeal the district court's ruling granting summary judgment to defendants. **AFFIRMED BY OPERATION OF LAW.**

Edward J. Gallagher, Jr., and Timothy C. Boller of Gallagher, Langlas & Gallagher, P.C., Waterloo, for appellants.

David L. Riley of Lindeman & Yagla, Waterloo, for appellee Swiss Valley.

Heard by Schlegel, P.J., and Hayden and Sackett, JJ., but decided en banc.

PER CURIAM 279

The court being equally divided, the judgment is affirmed by operation of law. Iowa Code § 602.5106(1) (1987).

AFFIRMED.

For affirmance: Donielson, Sackett, and Habhab, JJ.

For reversal: Oxberger, C.J., and Schlegel and Hayden, JJ.