

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE**

DARREN K. KEARNS,

Appellant,

v.

NEW YORK COMMUNITY BANK, et al.,

Respondents.

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**DOCKET NUMBER WD74710**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** January 15, 2013

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**APPEAL FROM**

The Circuit Court of Cass County, Missouri  
The Honorable Jacqueline A. Cook, Judge

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**JUDGES**

Division Four: Welsh, C.J., Pfeiffer, J., and Shafer, Sp.J.

CONCURRING.

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**ATTORNEYS**

Darren K. Kearns  
Overland Park, KS

Appellant, *pro se*,

Kevin K. Anderson  
Harrisonville, MO

Attorney for Respondents New York  
Community Bank and James Ricca,

Charles E. Weedman, Jr., and T.R. Hoefle  
Harrisonville, MO

Attorneys for Respondent First American  
Title Insurance Company.

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

**DARREN K. KEARNS,** )  
 )  
 ) **Appellant,** )  
**v.** ) **OPINION FILED:**  
 ) **January 15, 2013**  
**NEW YORK COMMUNITY BANK, et al.,** )  
 )  
 ) **Respondents.** )

**WD74710**

**Cass County**

**Before Division Four Judges:** James Edward Welsh, Chief Judge, Mark Pfeiffer, Judge, and Abe Shafer, Special Judge

Darren K. Kearns (“Kearns”) appeals from the Order or docket entry granting First American Title Company’s motion to dismiss on the grounds of lack of personal jurisdiction and forum non conveniens and New York Community Bank and James Ricca’s motion to dismiss for lack of subject matter jurisdiction and personal jurisdiction entered by the Circuit Court of Cass County, Missouri (“trial court”).

The trial court’s Order granting the motions to dismiss was signed but not denominated as a “judgment” as required by Rule 74.01(a). Kearns appealed from this Order. Kearns was advised by this court that, in order to properly process his Notice of Appeal, a judgment with the judge’s signature or a docket sheet with a signed judgment entry was required.

In response, this court received from Kearns a Rule 74.03 Notice of Entry containing a certified copy of a “Judge/Clerk – Note” of a docket entry commenting on the previous Order and attempting to transform the previous Order into a “judgment,” which practice is discouraged by this opinion. The “Note” was not an electronically filed document by the trial court. The typewritten name of the trial judge appeared at the end of the docket entry. Although a judge’s handwritten initials added to a docket entry are sufficient to satisfy the signature requirement of Rule 74.01(a), the judge’s handwritten initials did not appear anywhere in the docket entry. Instead, the “Note” was signed with the name of the Clerk of Court, with the initials below the signature line. The “Note” was not denominated as a judgment as required by Rule 74.01(a). The docket entry did not purport to be a new judgment with a new date. Even though the word

“judgment” appeared in the body of the docket entry, the word referred to the prior Order of the trial court and did not denominate the docket entry a judgment.

**APPEAL DISMISSED.**

**Division Four holds:**

A prerequisite to appellate review is that the appellant must be appealing from a final judgment. Rule 74.01(a) defines what constitutes a judgment: “a writing *signed by the judge and denominated ‘judgment’* or ‘decree.’” The Rule provides that the judgment may be either a separate document or an entry on the docket sheet of the case. Neither the trial court’s Order nor docket entry satisfied Rule 74.01(a).

When an “order” fails to satisfy our requirement for a final judgment, the practice encouraged by this opinion is for the trial court to create a new document tracking the substantive language of the original “order,” denominate it as a “judgment,” and affix the trial judge’s signature.

**Opinion by: Mark D. Pfeiffer, Judge**

January 15, 2013

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