

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DONALD L. BRYANT, JR.,	)	No. ED97978
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of St. Louis County
vs.	)	
	)	Honorable Colleen Dolan
BRYAN CAVE, LLP, and	)	
LAWRENCE BRODY,	)	
	)	
Respondents.	)	FILED: February 5, 2013

Donald Bryant (“Bryant”) appeals from the trial court’s grant of summary judgment in favor of Lawrence Brody (“Brody”) and Bryan Cave (collectively “Respondents”) in Bryant’s action for legal malpractice against Respondents. Bryant brought suit against Respondents alleging that their negligence in preparing a revised antenuptial agreement caused Bryant’s payment obligation to his former wife, Barbara Murphy (“Murphy”) to unnecessarily and substantially increase upon their divorce. The trial court granted Respondents’ motion for summary judgment finding Bryant failed to produce admissible evidence sufficient to create a genuine issue of fact that any act or omission by Respondents caused Bryant damages because there was no admissible evidence that Murphy would have agreed to the provisions Bryant alleges should have been included in the antenuptial agreement. On appeal, Bryant alleges that the trial court erred in entering summary judgment because admissible evidence of causation exists in that Bryant testified that he believed Murphy would agree to the provisions, Murphy’s prior testimony indicates she would agree to the provisions, and Bryant produced expert opinion evidence that Murphy would have agreed to the provisions. Bryant also contends that the trial court erred in applying an incorrect standard for causation in that Bryant was not required to show the essential elements of the agreement he claims would have been reached but for Respondents’ negligence.

AFFIRMED.

Division Four holds: The record does not contain competent evidence sufficient to create a genuine issue of fact that Respondents’ act or omission caused Bryant damages. Testimony from Bryant that Murphy would have agreed to the provisions at issue is inadmissible speculation, and prior testimony from Murphy on the subject constitutes inadmissible hearsay. The trial court also correctly disregarded the expert opinion evidence offered by Bryant on the issue of causation because the expert opinion evidence that Murphy would have agreed to the provisions is not based on the witnesses’ specialized knowledge of family law. Finally, we hold that Bryant was required to provide, and failed to provide, evidence of the essential terms of the agreement he alleges would have been reached but for Respondents’ negligence. Accordingly, the evidence before us does not raise a genuine issue of fact to support a finding that the financial consequences of Bryant’s divorce from Murphy proximately resulted from Respondents’ actions

in negotiating the antenuptial agreement. Because Bryant failed to adduce sufficient evidence allowing a jury to find this essential element to his claims of negligence, we affirm the judgment of the trial court.

Opinion by: Kurt S. Odenwald, J., Lawrence E. Mooney, P.J., and Patricia L. Cohen, J., Concur.

Attorney for Appellants: Laurence D. Mass, David B. Markowitz and Joseph L. Franco

Attorney for Respondent: Robert T. Haar and Susan E. Bindler

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.