

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**ICE CASTLES, INC.**

**APPELLANT,**

**v.**

**GROSS INSURANCE AGENCY, INC.  
AND BELINDA "WENDY" BRADLEY**

**RESPONDENTS.**

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DOCKET NUMBER WD74776

DATE: February 5, 2013

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Appeal From:

Henry County Circuit Court  
The Honorable Neal R. Quitno, Judge

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Appellate Judges:

Division One: Thomas H. Newton, Presiding Judge, Joseph M. Ellis, Judge and Gary D. Witt,  
Judge

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Attorneys:

Roger G. Brown, Jefferson City, MO and Harold L. Caskey, Butler, MO, for appellant.

Robert H. Houske and Scott D. Hofer, Kansas City, MO, for respondents.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
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**ICE CASTLES, INC.,**

**APPELLANT,**

**v.**

**GROSS INSURANCE AGENCY, INC.  
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**RESPONDENTS.**

No. WD74776

Henry County

Before Division One: Thomas H. Newton, Presiding Judge, Joseph M. Ellis, Judge and Gary D. Witt, Judge

Ice Castles, Inc. ("Ice Castles") filed this action against Gross Insurance Agency ("Gross") and Belinda Wendy Bradley ("Bradley") for negligence, breach of fiduciary duty, and replevin for failure to procure workers compensation insurance on behalf of Ice Castles, after Ice Castles paid for the coverage. This action arose out of prior litigation initiated by Chamberlain, an employee of Ice Castles, for work-related injuries that would have been covered by the workers' compensation insurance if such coverage had been in effect.

Chamberlain and Ice Castles entered into a settlement of that injury claim pursuant to section 537.065. Chamberlain's damages were found in that action to equal \$1,500,000. Ice Castles then pursued this action against Gross and Bradley. A line of damages in this action was the judgment entered against Ice Castles in favor of Chamberlain in the earlier action. The trial court granted partial summary judgment in favor of Gross and Bradley, declaring the earlier judgment to be void and not a valid item of damages.

**APPEAL DISMISSED**

**Division One holds:**

For us to have jurisdiction over an appeal, the trial court must enter a final judgment. Rule 74.01(b) allows a trial court to enter a judgment as to fewer than all claims or parties "only upon an express determination that there is no just reason for delay." But to be final for purposes of appeal, a judgment must dispose of a "distinct judicial unit." A "distinct judicial unit" means "the final judgment on a claim and not a ruling on some of several issues arising out of the same transaction or occurrence which does not dispose of a claim." Here, none of Ice Castles' claims would dissipate under the partial summary judgment in question, only the potential evidence presented to the fact finder was at issue.

We therefore must dismiss the appeal of the partial summary judgment for lack of jurisdiction.

Opinion by Gary D. Witt, Judge

February 5, 2013

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