

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

THOMAS BINKLEY, HARLENE J.) No. ED100044
BINKLEY, ROLAND E. STURHAHN,)
and SUSAN J. STURHAHN, Appellants,) Appeal from the Circuit Court of
) St. Louis County
vs.)
) Honorable Tommy W. DePriest, Jr.
AMERICAN EQUITY MORTGAGE, INC.,)
Respondent.) Filed: February 18, 2014

Thomas and Harlene Binkley and Roland and Susan Sturhahn (Plaintiffs) appeal the trial court's grant of summary judgment to American Equity Mortgage, Inc. (AEM) on their claims of: (1) "doing law business" in violation of Section 484.010.2; (2) violation of the Missouri Merchandising Practices Act (MPA); and (3) unjust enrichment. On appeal, Plaintiffs claim the trial court erred in granting summary judgment to AEM because there were genuine issues of disputed material fact as to elements of each claim.

AFFIRMED.

Division Four Holds: To survive a motion for summary judgment on a claim for "doing law business" in violation of Section 484.010.2, a plaintiff must demonstrate a genuine dispute as to material facts regarding both elements of the claim, namely: (1) the procurement of legal documents (2) for valuable consideration. Based on the record before us, the trial court did not err in granting AEM summary judgment on Plaintiffs' "doing law business" claim because there was no genuine issue of material fact as to either of the required elements. Although AEM admitted that it "procured" the legal documents underlying Plaintiffs' real estate loan transactions, Plaintiffs failed to contravene AEM's averment that it neither charged a separate fee nor varied its customary charges for procurement of those documents. Because Plaintiffs' MPA and unjust enrichment claims were predicated on the "doing law business" claim, they fail for the above stated reasons.

Opinion by: Patricia L. Cohen, J.
Lisa S. Van Amburg, P.J., and Gary M. Gaertner, Jr., J., concur.

Attorney for Appellants: Robert Schultz III

Attorney for Respondent: David P. Stoeberl

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