

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

BRENT E. TAYLOR, Plaintiff/Respondent,)	No. ED100346
)	
vs.)	Appeal from the Circuit Court
)	of Warren County
BRYAN FERGUSON and)	
TINA FERGUSON, Defendants/Appellants,)	Honorable Wesley C. Dalton
)	
and)	
)	
MICHAEL TAYLOR RENTALS, LLC,)	
and MARTINSBURG BANK and)	
TRUST, Intervenors/Respondents.)	Filed: May 20, 2014

The homeowners, Bryan and Tina Ferguson, appeal the judgment of the Circuit Court of Warren County denying their motion pursuant to the Servicemembers Civil Relief Act, 50 App. U.S.C. sec. 501 *et seq.*, to set aside the default judgment obtained against them by the plaintiff, Brent Taylor, in his action to quiet title to certain real property.

REVERSED AND REMANDED WITH DIRECTIONS.

DIVISION TWO HOLDS: The homeowners would suffer a manifest injustice or miscarriage of justice if they are denied the opportunity for an evidentiary hearing to establish whether Mr. Ferguson was an active member of the military during the relevant time, and thus whether the Servicemembers Civil Relief Act, 50 App. U.S.C. sec. 501 *et seq.*, affords them protection. Because the homeowners' motion to set aside the default judgment and supporting documents averred a *prima facie* basis for reopening the default judgment pursuant to the Servicemembers Civil Relief Act, the trial court plainly erred in denying the motion without an evidentiary hearing.

Opinion by: Lawrence E. Mooney, P.J. Robert G. Dowd, Jr., J., and Sherri B. Sullivan, J., concur.

Attorney for Appellants: Henry M. Dewoskin

Attorney for Respondents: Philip J. York and Michael K. Daming

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.