

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

TRAVELERS COMMERCIAL	)	ED100802
CASUALTY COMPANY, Appellant,	)	
vs.	)	Appeal from the Circuit Court
	)	of St. Louis County
	)	
VAC-IT-ALL SERVICES, INC.,	)	Hon. Richard C. Bresnahan
Respondent/Cross-Appellant.	)	FILED: December 16, 2014

Travelers Commercial Casualty Company appeals from the judgment entered after a jury verdict awarding its insured, Vac-It-All, \$8,000 in overpaid premiums on the parties' competing breach of contract claims. Vac-It-All cross-appeals seeking prejudgment interest on that award.

AFFIRMED, IN PART, AND REVERSED AND REMANDED, IN PART.

Division Three holds:

The trial court did not abuse its broad discretion regarding discovery violations in allowing Vac-It-All's witness to testify despite not having been disclosed as an expert. There was no error in submitting the verdict-director without modifications that were not contemplated in the applicable MAI. None of the challenged comments made during closing argument resulted in prejudicial error. The trial court did not err in overruling Travelers's motion for new trial or its motion for JNOV on Vac-It-All's counterclaim, and Travelers has no basis for challenging the verdicts in Vac-It-All's favor on its own claim. The argument that Vac-It-All failed to exhaust its administrative remedies is without merit.

The trial court erred in denying prejudgment interest, and the case is remanded for determination thereof.

Opinion by: Robert G. Dowd, Jr., J  
Kurt S. Odenwald, P.J. and Gary M. Gaertner, Jr., J., concur.

Attorneys for Appellant: John A. Michener, Brian R. Shank

Attorney for Respondent: Gregory G. Fenlon

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