

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

ARKANSAS-MISSOURI FOREST PRODUCTS, LLC,)	No. ED102321
)	
Plaintiff/Appellant,)	Appeal from the Circuit Court of Cape Girardeau County
vs.)	
)	
STUART J. LERNER, <i>et al.</i> ,)	Honorable Benjamin F. Lewis
)	
Defendants/Respondents.)	Filed: January 19, 2016

Plaintiff Arkansas-Missouri Forest Products, L.L.C. (“Ark-Mo”) appeals from the trial court’s judgment notwithstanding the verdict (“JNOV”) that set aside the jury’s verdict in favor of Ark-Mo on Ark-Mo’s breach of contract claim against Stuart Lerner (“Lerner”). The jury awarded Ark-Mo \$2,169,398 in damages. Ark-Mo also appeals from the trial court’s judgment in favor of defendants on Ark-Mo’s claim for an accounting.

REVERSED AND REMANDED.

Division Two Holds: Upon our review of the record on appeal, we do not find a complete absence of probative facts to support the jury verdict in favor of Ark-Mo on Ark-Mo’s breach of contract claim against Lerner. Ark-Mo made a submissible case for breach of contract and none of the grounds Lerner raised in his motion for directed verdict can support the trial court’s JNOV. Accordingly, the trial court’s JNOV regarding Ark-Mo’s claim for breach of contract against Lerner is reversed and the cause is remanded with instructions to enter judgment in accordance with the jury’s verdict awarding Ark-Mo \$2,169,398 in damages. Also, we find the trial court erred in concluding that the issues Ark-Mo raised in its claim for an accounting were submitted to the jury. Accordingly, the trial court’s judgment in favor of defendants and against Ark-Mo on Ark-Mo’s claim for an accounting is reversed and remanded with instructions to reinstate the trial court’s interlocutory order for an accounting, dated September 29, 2014, and to proceed in accordance with the order. In proceeding with an accounting, the trial court shall exclude from the accounting the issue of attorneys’ fees expended by Blue Chip II, L.L.C. from 2009 to 2013.

Opinion by: Angela T. Quigless, J.

Philip M. Hess, P.J. and Gary M. Gaertner, Jr., J., Concur.

Attorneys for Appellant: Lynn W. Hursh, Gerald A. King, and Thomas B. Weaver

Attorneys for Respondent: Theodore C. Beckett, III, Jeffrey M. Hensley, Jeffrey P. Hine, Brian E. McGovern, and James R. Walsh

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.