

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

JEFFREY ALAN HEBERLIE,) ED103702
)
 Appellant,) Appeal from the Circuit Court
) of the City of St. Louis
 v.) 1322-CC09315
)
 HARRIMAN OIL COMPANY, LLC,) Honorable Joan L. Moriarty
)
 Respondent.) Filed: September 6, 2016

Appellant Jeffery Heberlie (Heberlie) appeals the trial court’s summary judgment in favor of Respondent Harriman Oil Company, LLC (Harriman Oil), on Heberlie’s claim of malicious prosecution. The underlying suit prompting Heberlie’s claim was initiated by Harriman Oil against Heberlie for collection of a debt. Heberlie argued Harriman Oil knew such debt had been discharged by bankruptcy proceedings, thus Heberlie filed the present suit for malicious prosecution.

AFFIRMED.

Division Four Holds: Harriman Oil’s suit included a claim of fraud, and the undisputed facts showed Harriman Oil had probable cause to bring this claim. Thus, Harriman Oil established that Heberlie would be unable to produce sufficient evidence to allow the trier of fact to find the existence of one of the elements of malicious prosecution; namely, that Harriman Oil lacked probable cause for the entire proceeding. By this, Harriman Oil established a right to judgment as a matter of law as the defending party. The trial court did not err in granting summary judgment in favor of Harriman Oil.

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

Attorney for Appellant: Clinton B. Roberts
 Attorneys for Respondent: David T. Ahlheim, Craig D. Jobe

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.