

MISSOURI COURT OF APPEALS EASTERN DISTRICT
OPINION SUMMARY

DIVISION THREE

GP&W INC., D/B/A CENTER)	No. ED103729 & ED103902
MARKETING COMPANY,)	
)	
Respondent/Cross Appellant,)	Appeal from the Circuit Court of
)	St. Louis County
vs.)	
)	
DAIBES OIL, LLC, ET AL.,)	Hon. Barbara W. Wallace
)	
Appellants/Cross Respondents.)	FILED: September 6, 2016

Defendant Daibes Oil, LLC appeals the trial court's order granting summary judgment in favor of plaintiff GP&W Inc., d/b/a Center Marketing Company (GP&W). Daibes Oil further appeals the trial court's order denying its Amended Motion to Dismiss for Lack of Personal Jurisdiction and Amended Motion to Transfer to the United States District Court for the Eastern District Court of Appeals of Missouri. GP&W cross-appeals the trial court's judgment denying GP&W's request for attorney's fees and costs as the prevailing party.

AFFIRMED IN PART AND REVERSED IN PART

DIVISION THREE HOLDS: (1) The trial court properly exercised personal jurisdiction over Daibes Oil and granted summary judgment in favor of GP&W because Daibes Oil waived personal jurisdiction through a forum selection clause contained in the contract, so GP&W was not required to prove minimum contacts under the Missouri long-arm statute; (2) The Amended Motion to Dismiss did not pertain to Daibes Oil, so the issue of personal jurisdiction as to Daibes Oil was not properly preserved on appeal; (3) The trial court properly denied Daibes Oil's Amended Motion to Transfer because the forum selection clause was enforceable and not vague, ambiguous, or overbroad; and (4) The trial court erred when it failed to award attorney's fees and costs to GP&W as the prevailing party because such an award was required under the contracts.

The trial court is affirmed as to Daibes Oil's appeal and reversed as to GP&W's cross-appeal. The matter is remanded, and the trial court directed to determine a reasonable amount of attorneys' fees and costs to be awarded to GP&W.

Opinion by: Lisa S. Van Amburg, Judge

Angela T. Quigless, P.J., and Robert G. Dowd, J. concur.

Attorney for Appellant: Christopher B. Bent
Nashad O. Carrington (co-counsel)

Attorney for Respondents: H. Clay Billingsley
John Kilo (co-counsel)

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
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