

MISSOURI COURT OF APPEALS EASTERN DISTRICT
OPINION SUMMARY

DIVISION THREE

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|--|---|----------------------------------|
| DANIEL MURPHY, individually and on |) | No. ED104072 |
| Behalf of all others similarly situated in |) | |
| Missouri, |) | |
| |) | |
| Plaintiff/Appellant, |) | Appeal from the Circuit Court of |
| vs. |) | the City of St. Louis |
| |) | |
| STONEWALL KITCHEN, LLC, |) | Hon. Joan L. Moriarty |
| |) | |
| Defendant/Respondent. |) | FILED: November 8, 2016 |

Appellant Daniel Murphy appeals the trial court’s order granting Respondent Stonewall Kitchen, LLC’s motion to dismiss.

REVERSED AND REMANDED.

DIVISION THREE HOLDS: The trial court improperly dismissed Appellant’s petition because Appellant alleged facts sufficient to survive a motion to dismiss with regard to Appellant’s MMPA claim. Respondent’s bare assertion that the term “all natural” is ambiguous does not cause Appellant’s entire MMPA claim to fail. The parties should have been permitted to proceed to discovery to allow development of fact issues. Furthermore, the “ingredient list” defense adopted by the trial court does not, as a matter of law, defeat Appellant’s MMPA claim. Finally, because Appellant’s MMPA claim is reinstated with this opinion, we do not reach the merits of Point II concerning the unjust enrichment claim.

Opinion by: Lisa S. Van Amburg, J.
Angela T. Quigless, P.J., and Robert G. Dowd, Jr., J. Concur.

Attorney for Appellant: Matthew H. Armstrong

Attorney for Respondents: Douglas W. King
Daniel. L. Human

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