

OPINION SUMMARY
MISSOURI COURT OF APPEALS – EASTERN DISTRICT

DIVISION FOUR

TRIDENT GROUP, LLC and)	No. ED90268
FAZIMO, INC.,)	
)	Appeal from the Circuit Court
Plaintiffs/Respondents,)	of St. Louis County
)	05CC-006099
vs.)	
)	Honorable Michael T. Jamison
MISSISSIPPI VALLEY)	
ROOFING, INC.,)	
)	
Defendant/Appellant.)	FILED: January 30, 2009

Before Booker T. Shaw, P.J., and Kathianne Knaup Crane, J., and Mary K. Hoff, J.

PER CURIAM

Mississippi Valley Roofing, Inc. (Defendant) appeals from the judgment resulting from a suit for roof damages to two commercial buildings, Brookwood Shopping Center (Brookwood) and Poor Richards Building (Poor Richards), owned by Fazimo, Inc. (Fazimo) and managed by Trident Group LLC, (Trident) (collectively Plaintiffs). The judgment awarded Fazimo a total of \$89,500 in damages, plus costs, and awarded Trident \$0 in damages.

On appeal, Defendant argues the trial court erred in: (1) overruling its objection to the admission of a roofing report provided by Steven Gray (Gray), a roofing consultant, as hearsay; (2) overruling its objections to Instructions 13 and 16, modeled after MAI 26.02; (3) overruling its objections to Instructions 29 and 34, modeled after MAI 17.02; (4) sustaining Plaintiffs’ objections that Defendant’s cross-examination of several witnesses was “beyond the scope of direct examination”; (5) overruling its objection that Mark Vigna (Vigna), Poor Richards tenant, was a “surprise witness”; (6) overruling its objection that Plaintiffs “misstated the law” during closing argument; (7) overruling its objection to Plaintiffs’ submitting multiple “theories” of recovery, in tort and contract, which resulted in double recovery; (8) denying its objection to the verdict, as inconsistent and contradictory, and demand for mistrial; and (9) denying its motion to dismiss Trident for lack of standing.

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

Division Four Holds: We reverse as to Verdict G and Verdict H on the theory of double recovery. However, we affirm as to the remaining issues. We find there was no trial court error in: (1) admitting Gray’s roofing report; (2) overruling objections to Instructions 13, 16, 29, and 34 as violating Rule 70.02; (3) limiting the scope of cross-examination of several witnesses; (4) overruling objections that Vigna was a “surprise witness”; (5) overruling objections that Plaintiffs “misstated the law” during closing argument; (6) denying objections that the verdict was inconsistent; and (7) denying Defendant’s motion to dismiss Trident for lack of standing.

Attorney for Appellant:
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