OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT
DIVISION ONE

AMG FRANCHISES, INC., Respondent,	)	No. ED91631
	)	
v.	)	
	)	Appeal from the Circuit Court
CRACK TEAM USA, INC. and	)	of St. Louis County
TEAM DISTRIBUTORS, LLC.,	)	
Appellants.	)	Filed: April 28, 2009

Crack Team USA, Inc. and Team Distributors, LLC (collectively, Appellants) appeal from the trial court's denial of their Joint Motion for New Trial or in the Alternative to Amend Judgment (Motion for New Trial) following the entry of a default judgment. Appellants allege the trial court erred in its assessment and computation of damages when it entered a default judgment in favor of AMG Franchises, Inc. (Respondent) in the amount of $530,755.

DISMISSED.

Division One holds: Without authority to hear a direct appeal from a default judgment where the trial court has not entered judgment on the underlying motion to set aside pursuant to Rule 74.05(d), this Court may not proceed. The appeal raised by Appellants here does not present questions concerning the trial court's subject matter jurisdiction or the sufficiency of the plaintiff's petition, and thus, no exception applies to allow us to move forward on the appeal. The alleged deficiencies in the petition do not call to question the trial court's subject matter jurisdiction, and the statutory limitation placed on the trial court's ability to enter a judgment or fashion a remedy under Section 511.160, RSMo 2000, does not involve the trial court's subject matter jurisdiction. Because the claim raised by Appellants is not cognizable by direct appeal at this time, we dismiss the appeal.

Opinion by: Kurt S. Odenwald, P.J. Glenn A. Norton, J. and Patricia L. Cohen, J., Concurs.

Attorney for Appellant: Nicholas B. Schopp

Attorneys for Respondent: Paul N. Rechenberg and Elizabeth A. Rechenberg

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.