

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FOUR

THE BAR PLAN,)	No. ED91848
)	
Plaintiff/Appellant,)	Appeal from the Circuit Court of
)	St. Louis County
v.)	Cause No. 05CC-000029
)	Honorable John F. Kintz
WILLIAM COOPER, et al.,)	
)	
Defendants/Respondents.)	Filed: June 23, 2009

Attorneys William Cooper and Cynthia Bitting (Respondents) obtained a judgment from the trial court stating that Appellant The Bar Plan Mutual Insurance Company (TBP) was liable to Respondents to reimburse them for attorneys fees incurred during the appeal of an underlying case. The trial court found that the attorney TBP had appointed to represent Respondents, Joe Devereux, acted as an agent for TBP in consenting to incur additional legal fees from another attorney, John Bardgett. TBP argues on appeal that Devereux was not the agent of TBP and TBP could not be obligated through the actions of Devereux to reimburse legal fees Respondents paid to Bardgett.

REVERSED AND REMANDED.

Division Four Holds: There was no substantial evidence to support the trial court's finding that Devereux was the agent of TBP. We also find no substantial evidence that TBP itself waived its written consent requirement. Therefore, because Respondents did not obtain TBP's written consent to hire Bardgett, TBP was not obligated to reimburse Respondents for Bardgett's legal fees.

Opinion by: Kenneth M. Romines, J.
Kathianne Knaup Crane, P.J. and Mary K. Hoff, J., concur.

Attorneys for Appellant: Brent W. Baldwin, Steven M. Wald

Attorneys for Respondents: John A. Kilo, H. Clay Billingsley

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.