

OPINION SUMMARY

MISSOURI COURT OF APPEALS – EASTERN DISTRICT

DIVISION THREE

THOMAS DIEHL and BARBARA DIEHL,)	No. ED92843
))
Plaintiffs/Appellants,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	22052-07589
))
FRED WEBER, INC.,)	Honorable David Dowd
)	Honorable Robert H. Dierker, Jr.
))
Defendant/Respondent.)	FILED: January 26, 2010

Before Glenn A. Norton, P.J., Mary K. Hoff, J., and Lawrence E. Mooney, J.

PER CURIAM

Thomas Diehl (Mr. Diehl) and Barbara Diehl (collectively referred to as the Diehls) appeal from the trial court's grant of summary judgment in favor of Fred Weber, Inc., (Weber) on the Diehls' petition alleging malicious prosecution, abuse of process, intentional infliction of emotional distress, and prima facie tort.

REVERSED AND REMANDED in part and **AFFIRMED** in part.

Division Three Holds: Because disputed issues of material fact exist with regard to Mr. Diehl's claims of malicious prosecution and abuse of process and Wife's claim of prima facie tort, the trial court erred in granting summary judgment in favor of Weber on those claims. We find no abuse of discretion or error with regard to the trial court's rulings on the Diehls' claims concerning intentional infliction of emotional distress, the return of privileged documents, the discovery of attorney work product, and the striking of their amended petition.

Attorney for Appellant:	Michael D. Quinlan
Attorney for Respondent:	Lawrence Hartstein Winthrop B. Reed, III

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