



In the Missouri Court of Appeals Eastern District

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

COURT OF 5 GARDENS)	No. ED94576
CONDOMINIUM ASSOCIATION,)	
)	
Plaintiff/Respondent,)	Appeal from the Circuit Court
)	of St. Louis County
)	Cause No. 08SL-AC52573-01
vs.)	
)	Honorable Brenda Stith Loftin
10330 OLD OLIVE, LLC,)	
)	
Defendant/Appellant.)	FILED: December 14, 2010

Defendant, 10330 Old Olive, LLC, appeals from the judgment denying its motion to set aside a default judgment.

AFFIRMED IN PART, REVERSED IN PART AND REMANDED.

Divison Five holds: The trial court did not abuse its discretion by denying defendant's motion to set aside the default judgment because the motion was not verified or supported by affidavits or sworn testimony at a hearing on the motion. The trial court plainly erred in its assessment of damages because there was insufficient proof for the damages award, and the cause is remanded for a hearing on the issue of damages.

Opinion by: Gary M. Gaertner, Jr., P.J. Mary K. Hoff, J. and Lawrence E. Mooney, J. concur.

Attorneys for Appellant: Patricia Ann Wilcox

Attorneys for Respondent: Randall Eliot Gusdorf, Michael Anthony Kasperek

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.