

**OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

GERALD E. MEYER, PERSONAL	)	No. ED97630
REPRESENTATIVE OF THE ESTATE	)	
OF ANNA HOLTZ, ET AL.,	)	
	)	
Plaintiffs/Respondents,	)	Appeal from the Circuit Court of
	)	City of St. Louis
vs.	)	
	)	Honorable David Dowd
DAVID S. PURCELL AND PURCELL	)	
AND AMEN, LLC,	)	
	)	
Defendants/Appellants.	)	Filed: July 16, 2013

David S. Purcell and the law firm of Purcell & Amen LLC (collectively “Attorneys”), appeal from the trial court’s judgment entered following a jury verdict in favor of the estates and trusts of Steve Boliance and Anna Holtz (“Estates”) on claims for legal malpractice. Attorneys contend the trial court erred in: submitting to the jury the issue of punitive damages, jury instructions regarding punitive damages, submitting Estates’ legal malpractice claims, excluding and admitting certain evidence, entering judgment against Attorneys for legal malpractice and denying their motion for new trial.

**AFFIRMED IN PART AND REVERSED IN PART.**

**DIVISION TWO HOLDS:** The trial court did not abuse its discretion in excluding evidence challenging the reasonableness and necessity of attorneys’ fees or in entering judgment against Attorneys for legal malpractice. Sufficient probative facts support the jury’s conclusion as to Estates’ legal malpractice claim, and the attorneys failed to properly preserve their objection as to the admissibility of testimonial evidence at trial. Thus we affirm that part of the judgment. However, the trial court erred in submitting punitive damages to the jury because there was not clear and convincing evidence of evil motive or reckless indifference. Therefore we reverse that part of the judgment awarding punitive damages.

Opinion by: Lisa S. Van Amburg, J. Kathianne Knaup Crane, P.J. and Mary K. Hoff, J.  
Concur.

Attorney for Appellants: Thomas J. Hayek, Jason W. Kinser, co-counsel and Brandon A. Dewitt, co-counsel

Attorney for Respondents: David T. Butsch, James Simeri, co-counsel and David N. Damick, co-counsel

<p><b>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.</b></p>
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