

Summary of SC90205, *Donald L. Bryant, Jr. v. Smith Interior Design Group, Inc., and William Kopp*

Appeal from the St. Louis County circuit court, Judge David Lee Vincent, III
Argued and submitted Dec. 15, 2009; opinion issued March 9, 2010

Attorneys: Bryant was represented by A. Elizabeth Blackwell, John R. Musgrave and Ryan K. Manger of Thompson Coburn LLP in St. Louis, (314) 552-6000; and Smith Interior and Kopp were represented by Paul Gerard Lane, Douglas P. Dowd, James M. Dowd and Alex R. Lumaghi of Dowd & Dowd PC in St. Louis, (314) 621-2500.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A man in a fraud action appeals the trial court's judgment granting the defendants' motion to dismiss the suit after finding that it lacked personal jurisdiction over the defendants because they had insufficient contacts with Missouri. In a unanimous decision written by Judge Laura Denvir Stith, the Supreme Court of Missouri reverses the trial court's decision and remands (sends back) the case for further action. Missouri has personal jurisdiction over the defendants because the defendants sent fraudulent documents into Missouri and the fraud action arises out of those contacts. This is sufficient to satisfy Missouri's long-arm statute and the due process clause of the Fourteenth Amendment – the prerequisites for personal jurisdiction.

Facts: Out-of-state resident William Kopp, the president of out-of-state corporation Smith Interior Design Group, traveled to Missouri to discuss Smith Interior providing interior design services for Missouri resident Donald Bryant's New York City apartment. Later, the parties reached an agreement that Smith Interior would provide design services for the apartment. Afterward, Smith Interior sent documents to Bryant in Missouri that Bryant alleges misrepresented and fraudulently concealed the extent of commissions and fees that Smith Interior was charging. The parties exchanged mail, faxes, telephone calls and e-mails about the disputed commissions and the quality of Smith Interior's services. Thereafter, Bryant sued Smith Interior and Kopp under five theories, including fraudulent misrepresentation and fraudulent concealment. The trial court dismissed Bryant's lawsuit for lack of personal jurisdiction over Kopp and Smith Interior. Bryant appeals.

REVERSED AND REMANDED.

Court en banc holds: (1) The trial court erred in concluding that it lacked personal jurisdiction over Kopp and Smith Interior. To evaluate personal jurisdiction, Missouri courts assess whether the defendant's conduct is one of the types of conduct listed in Missouri's long-arm statute as being sufficient to make it fair to require defendant to come to Missouri to defend the lawsuit. The statute makes committing a tortious act within the state a basis for long-arm jurisdiction. Bryant's allegation that Kopp and Smith Interior sent false and misleading documents to him in Missouri, if proved, would constitute the commission of a tortious act in Missouri. This is adequate to place Kopp and Smith Interior within the reach of the Missouri long-arm statute.

(2) The due process clause of the Fourteenth Amendment to the United States Constitution bars Missouri courts from exercising personal jurisdiction over a defendant who has so few contacts with Missouri that to do so would offend traditional notions of fair play and substantial justice. The central focus when evaluating whether a defendant has the necessary minimum contacts with Missouri is on whether there is some act by which the defendant purposefully availed himself of the privilege of conducting activities within Missouri, thereby invoking the benefits and protections of its laws. Here, by sending fraudulent documents into this state, Kopp and Smith Interior purposefully availed themselves of the privilege of conducting activities within this state and, thereby, have sufficient minimum contacts to be sued here for claims arising out of those contacts. This is true even though Kopp originally came to Missouri at the behest of Bryant's former wife, for that initial invitation cannot make him immune from suit for his subsequent fraudulent acts harming Missouri residents.