

Summary of SC95377, *State of Missouri ex rel. Heartland Title Services Inc. f/k/a Heartland Title Company Inc. and James C. Day v. The Honorable Kevin D. Harrell*

Proceeding originating in the Jackson County circuit court, Judge Kevin D. Harrell
Argued and submitted September 28, 2016; opinion issued October 18, 2016

Attorneys: Heartland was represented by Paul A. Burnett, an attorney in St. Louis, (314) 621-8400. Hasty was represented by T. Michael Ward, Matthew G. Koehler and Derek H. MacKay of Brown & James PC in St. Louis, (314) 242-5306.

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: In a case of first impression for this Court, a company seeks relief from the circuit court's dismissal of one claim of the company's petition for legal malpractice on the grounds that venue was not proper in that county. In a unanimous decision written by Judge Zel M. Fischer, the Supreme Court of Missouri makes permanent its preliminary writ directing the circuit court not to dismiss the claim for lack of venue. If personal and subject matter jurisdiction are established, venue is proper in any Missouri county in the absence of an express legislative provision restricting venue.

Facts: Heartland Title Service Inc. and James Day (collectively, Heartland) sued Paul P. Hasty Jr. and Hasty and Associates LLC (collectively, Hasty) claiming, in part, professional malpractice based on Hasty's provision of legal services in a case in which Heartland sought to become a creditor in a former employee's personal bankruptcy case filed in Kansas. Hasty moved to dismiss this claim for lack of venue, arguing the injury alleged in the count occurred outside Missouri and no county in Missouri constituted proper venue. The circuit court agreed and dismissed the claim for lack of venue. Heartland seeks this Court's relief.

PRELIMINARY WRIT MADE PERMANENT.

Court en banc holds: Venue was proper in the Jackson County circuit court. To hear a case, a court must have both jurisdiction and venue. Jurisdiction involves both subject matter jurisdiction (a court's authority to render judgment in a type of case) and personal jurisdiction (the court's power to require a party to respond to a legal proceeding affecting the party's rights or interests). Hasty did not allege the circuit court lacked subject matter jurisdiction over Heartland's claim, and Hasty's motion to dismiss did not allege lack of personal jurisdiction. Venue assumes jurisdiction, relates only to where the trial is to be held, and is determined by applicable statutes and rules. The parties agree the relevant venue statute – section 508.010.5, RSMo – does not prescribe a particular venue for the facts alleged in the claim. The language of section 508.010.5 does not reflect an intent to deny venue in all situations not provided for in the statute and, without an express prescription of a particular venue, venue is proper in any Missouri county. To interpret section 508.010's silence as barring venue in any Missouri county in which the circuit court's jurisdiction is not contested would lead to the absurd result of denying a party a forum in which a Missouri court has subject matter jurisdiction over the case and personal jurisdiction over the defendant. If subject matter and personal jurisdiction are established, venue is proper in any Missouri county in the absence of an express legislative provision restricting venue.