

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

GABRIELLE DORAN, et al.,
APPELLANTS

vs.

DINESH CHAND, et al.,
RESPONDENTS

WD69225

DATE: MARCH 17, 2009

Appeal from:
PLATTE COUNTY CIRCUIT COURT
THE HONORABLE OWENS L. HULL, JR., JUDGE

Appellate Judges:
Division Three: Victor C. Howard, P.J., Joseph M. Ellis and Alok Ahuja, JJ.

Attorneys:
Elle J. Sullivant, Esq., Independence, MO., **for Appellants**
Patrick F. Hulla, Esq., Kansas City, MO, **for Respondents**

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS, WESTERN DISTRICT

GABRIELLE DORAN, et al.,

Appellants

v.

DINESH CHAND, et al.,

Respondents

WD69225

Platte County, Missouri

Before Division Three Judges: Howard, P.J., Ellis and Ahuja, JJ.

Nineteen former employees of ADT Security Services, Inc. (Employees) appeal the judgment of the trial court dismissing their petition against ADT, TYCO Fire (NV) Inc., and nine of ADT's managers. Employees assert that the trial court erred in dismissing their petition as to any party other than ADT, specifically Tyco and the individual managers, because ADT's motion to dismiss did not request any relief for the other defendants. Employees also raise several points claiming that the trial court erred in dismissing their petition for failure to state a claim upon which may be granted. Finally, Employees claim that the trial court abused its discretion in not granting them the opportunity to amend their petition.

AFFIRMED IN PART, REVERSED IN PART, REMANDED

Division Three holds:

- (1) Where ADT filed a motion to dismiss, but Tyco and the individual managers did not, and Tyco and the individual managers were never served with process and no entry of appearance was made on their behalf, the trial court erred in dismissing Employees' petition against Tyco and the individual managers.
- (2) Where Employees point to nothing in ADT's handbook or policies or the acknowledgement forms signed by managers that would lead a reasonable at will employee to believe that ADT clearly and definitely offered to modify his or her at will status, and where ADT's policies against discrimination do not constitute a contract because consideration is lacking, the trial court did not err in dismissing Employees' contract claims against ADT.
- (3) Where Employees' claim against ADT of negligent supervision is essentially a claim for wrongful discharge, the trial court did not err in dismissing the claim.
- (4) Where Employees did not recite any new or additional facts or claims that they wished to assert in an amended petition to cure the inadequacy of their original petition, the trial court did not abuse its discretion in not granting Employees leave to amend their petition.

Opinion by: Victor Howard, J.

March 17, 2009

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