

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**PREMIER GOLF MISSOURI, LLC,
RESPONDENT**

vs.

**STALEY LAND COMPANY, L.L.C., and STALEY FARMS
HOMEOWNERS ASSOCIATION,
APPELLANT**

DOCKET NUMBER WD69341

DATE: March 31, 2009

Appeal from:
Clay County Circuit Court
The Honorable Anthony Rex Gabbert, Jr. Judge

Appellate Judges:
Division Three: Lisa White Hardwick, P.J., Joseph M. Ellis and Joseph P.
Dandurand, JJ.

Attorneys:
Eric Chadworth Carter, for Respondent

Ward Keith Brown, for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS WESTERN DISTRICT

PREMIER GOLF MISSOURI, LLC, RESPONDENT

v.

**STALEY LAND COMPANY, LLC and
STALEY FARMS HOMEOWNERS' ASSOCIATION, APPELLANT.**

WD69341

Clay County, Missouri

Before Division Three: Judges Lisa White Hardwick, P.J. and Joseph M. Ellis and Joseph P. Dandurand,¹ JJ.

Staley Land Company, LLC and Staley Farms Homeowners' Association appeal from a summary judgment entered in favor of Premier Golf Missouri, LLC on Premier's petition for declaratory judgment. The parties dispute whether the summary judgment motion was in proper form to allow the circuit court to grant the motion and whether the court improperly made factual determinations in ruling on the summary judgment.

REVERSED AND REMANDED.

Division Three holds:

- 1) Although Premier's motion for summary judgment was not in strict compliance with Rule 74.04(c), we need not decide whether the form of the motion precludes entry of summary judgment because, even if the motion was procedurally sufficient, Premier failed to show that there were no genuine issues of material fact and that it was entitled to judgment as a matter of law.
- 2) The circuit court erred in granting summary judgment because it improperly made several determinations concerning disputed material facts, including whether Premier's alleged failure to comply with certain lease terms constituted material breaches.

Opinion by: Joseph M. Ellis, Judge

March 31, 2009

This summary is *UNOFFICIAL* and should not be quoted or cited.

¹ Joseph P. Dandurand, Judge, participated in oral argument but was not a member of the Court when this opinion was handed down.