

# MISSOURI COURT OF APPEALS WESTERN DISTRICT

**DARRYL FIELDS and RENEE FIELDS,**

**Appellants,**

**v.**

**MILLSAP and SINGER, P.C., SUCCESSOR TRUSTEE, and WELLS FARGO BANK,  
NA.,**

**Respondents.**

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**DOCKET NUMBER WD70237**

**Date: August 18, 2009**

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**Appeal from:**

**Cass County Circuit Court**

**The Honorable Jacqueline A. Cook, Judge**

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**Appellate Judges:**

**Division One: Alok Ahuja, Presiding Judge, James M. Smart and Lisa White**

**Hardwick, Judges, Judges**

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**Attorneys:**

**Larry D. Coleman, Esq., Raytown, MO, for appellant.**

**Charles S. Pullium, III, Esq., and Scott D. Mosier, Esq., Chesterfield, MO, for  
respondent.**

**MISSOURI APPELLATE COURT OPINION SUMMARY**  
**COURT OF APPEALS -- WESTERN DISTRICT**

**DARRYL FIELDS and RENEE FIELDS**

**Appellants,**

**v.**

**MILLSAP and SINGER, P.C., SUCCESSOR TRUSTEE, and WELLS FARGO  
BANK, NA.,**

**Respondents.**

WD70237

Cass County

Before Division One Judges: Alok Ahuja, Presiding Judge, James M. Smart and Lisa White Hardwick, Judges.

Darryl Fields and Renee Fields appeal the circuit court's grant of summary judgment in favor of Millsap & Singer, P.C., and Wells Fargo Bank, NA., on the Fields' claims for rescission, quiet title, and damages for wrongful foreclosure. The Fields contend there were genuine issues of material fact that precluded summary judgment. They also contend the circuit court erred in failing to consolidate an unlawful detainer action with this action.

**DISMISSED IN PART; AFFIRMED IN PART.**

**Division One holds:** The Fields' appeal of summary judgment on their claims for rescission and quiet title is moot. Even if the Fields were to prevail in this appeal, they would not be entitled to the relief of rescission or quiet title because Deutsche Bank's purchase of the property at the foreclosure sale on the senior

deed of trust divested all parties to this appeal of any right, claim, or title to the property.

The circuit court properly granted summary judgment on the Fields' claim for damages for wrongful foreclosure. The evidence was undisputed that the Fields were in default and that Wells Fargo, as the mortgagee, had the right to foreclose.

The Fields' failure to include a copy of the unlawful detainer petition in the record on appeal precludes this court from determining whether the circuit court should have consolidated the two cases.

**Opinion by: Lisa White Hardwick, Judge**

August 18, 2009

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