

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

NICHOLAS MONTOYA,

Respondent

v.

A-1 MUFFLERS, INC..

Appellant

DOCKET NUMBER WD72276

DATE: February 22, 2011

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Peggy Stevens McGraw, Judge

Appellate Judges:

Division Three
Cynthia L. Martin, P.J., James Edward Welsh, and Gary D. Witt, JJ.

Attorneys:

Patrick E. McGrath, Overland Park, KS
Kevin Weakley, Overland Park, KS
Aaron E. Schwartz, Overland Park, KS

Counsel for Appellant,
Co-Counsel for Appellant,
Co-Counsel for Appellant,

Attorneys:

Patrick G. Reavey, Kansas City, MO

Counsel for Respondent

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

**NICHOLAS MONTOYA, Respondent, v.
A-1 MUFFLERS, INC., Appellant**

WD72276

Jackson County

Before Division Three Judges: Cynthia L. Martin, P.J., James Edward Welsh and Gary D. Witt, JJ.

A-1 Mufflers, Inc., appeals the circuit court's order denying its motion to strike Nicholas Montoya's proposed bill of costs. In its points on appeal, A-1 Mufflers argues that Montoya's proposed bill of costs included items that are not taxable as costs, that the court should have conducted an evidentiary hearing on the disputed items, and that the court lacked jurisdiction to "enter" Montoya's proposed bill of costs because Montoya filed it more than thirty days after the judgment was entered.

APPEAL DISMISSED.

Division Three holds:

Section 514.260, RSMo 2000, charges the circuit clerk with the duty to tax statutory court costs. The circuit clerk has not yet taxed costs in this case. Montoya's bill of costs is merely an unsolicited gratuitous proposal. We do not know which items the circuit clerk will include in her bill of costs. Hence, A-1 Mufflers's points on appeal disputing the taxability of some of Montoya's proposed costs and contesting the circuit court's jurisdiction to review certain costs are premature. There is nothing before us to review at this time.

Opinion by: James Edward Welsh, Judge

February 22, 2011

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