

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**CRAIG NEDYNICH,
RESPONDENT
vs.**

**CURTIS MASSOOD and MIDWEST OUTDOOR MEDIA, LLC.,
APPELLANT**

DOCKET NUMBER WD72816

DATE: JUNE 21, 2011

Appeal from:

The Circuit Court of Jackson County, Missouri
The Honorable Edith L. Messina, Judge

Appellate Judges:

Division Three: Joseph M. Ellis, P.J., Victor C. Howard and Thomas H. Newton, JJ.

Attorneys:

William J. Foland, Jr., for Respondent

Gregory S. Gerstner, for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

CRAIG FEDYNICH, RESPONDENT

v.

CURTIS MASSOOD and MIDWEST OUTDOOR MEDIA, LLC., APPELLANTS

WD72816

Jackson County, Missouri

Before Division Three: Joseph M. Ellis, P.J., Victor C. Howard and Thomas H. Newton, JJ.

Curtis Massood and Midwest Outdoor Media, LLC, (Defendants) appeal the judgment of the trial court in favor of Craig Fedynich on Mr. Fedynich's action for specific performance of a contract purportedly dividing all of the assets of Midwest between the parties. The judgment of the trial court is reversed, and the case is remanded to the trial court with directions.

REVERSED AND REMANDED.

- (1) Where nothing in the record indicates that certain terms below the signatures were not present at the time the parties signed the contract, such finding by the trial court was against the weight of the evidence.
- (2) Where the division of certain assets above the signatures seemed sufficiently definite but the terms below the signatures were unduly uncertain, the evidence did not show a meeting of the minds to divide all of Midwest's assets.
- (3) Where Mr. Fedynich sought to enforce the entire contract, which he contended divided all of the assets of Midwest, and never alleged that the division of some of the assets was a separate, enforceable contract, the trial court erred in finding a separate, enforceable contract regarding the division of assets above the signatures.

Opinion by: Victor C. Howard, Judge

Date: June 21, 2011

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