

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

KENNETH MOSBY, et al.,

Respondents,

v.

BRENDA K. WEST-ANDERSON,

Appellant.

DOCKET NUMBER WD73223

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: March 13, 2012

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable Ann Mesle, Judge

JUDGES

Division One: Martin, P.J., and Newton and Mitchell, JJ.

CONCURRING.

ATTORNEYS

Kenneth Mosby, et al.
Kansas City, MO

Respondents, *pro se*,

Brenda K. West-Anderson
Phoenix, AZ

Appellant, *pro se*.



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

KENNETH MOSBY, et al.,)
)
) **Respondents,**)
v.) **OPINION FILED:**
) **March 13, 2012**
BRENDA K. WEST-ANDERSON,)
)
) **Appellant.**)

WD73223

Jackson County

Before Division One Judges: Cynthia L. Martin, Presiding Judge, and
Thomas H. Newton and Karen King Mitchell, Judges

Appellant, Brenda West-Anderson, appeals the entry of a default judgment against her on Mosby's action to quiet title to certain property in Jackson County, Missouri. During the pendency of the case, a first amended petition was filed, the case was removed to federal court where an amended complaint was filed, and then the case was remanded back to state court. The trial court entered the default judgment on the grounds that West-Anderson failed to file a responsive pleading to the federal complaint and failed to appear at a status conference.

REVERSED AND REMANDED FOR FURTHER PROCEEDINGS.

Division One holds:

A default judgment was improper because the record reflects that West-Anderson filed a responsive pleading every time one was required. She filed answers to both the original and first amended petitions in state court. While the record does not reflect that she filed an answer to the federal complaint, it also does not reflect that one was required. Rule 55.34(b) requires that, following removal to and remand from federal court, the plaintiff must file a list of all documents filed in federal court that are to be made part of the record in state court and provide a copy of each document to the state court. Because the record does not indicate that Mosby complied with Rule 55.34(b), the federal complaint was never properly before the state court. Thus, West-Anderson was under no obligation to file a responsive pleading to the federal complaint, and her failure to do so did not justify the entry of a default judgment.

Likewise, West-Anderson's mere failure to appear at a status conference cannot serve as the basis for entry of a default judgment. Thus, we reverse the trial court's entry of default judgment and remand for further proceedings consistent with this opinion.

Opinion by: Karen King Mitchell, Judge

March 13, 2012

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.