

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

SENTRY INSURANCE,

Respondent

v.

DAVID KNOX, ET AL.,

Appellants

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DOCKET NUMBER WD73939

DATE: December 20, 2011

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Appeal From:

Circuit Court of Jackson County, MO  
The Honorable Brian Curtis Wimes, Judge

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Appellate Judges:

Division One  
Alok Ahuja, P.J., Thomas H. Newton, and James Edward Welsh, JJ.

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Attorneys:

James Sanders, Kansas City, MO  
Aaron Schwartz, Overland Park, KS

Counsel for Appellant  
Co-Counsel for Appellant

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Attorneys:

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

**SENTRY INSURANCE, Respondent, v.  
DAVID KNOX, ET AL., Appellants**

**WD73939**

**Jackson County**

Before Division One Judges: Ahuja, P.J., Newton, and Welsh, JJ.

David Knox, Laurie Sheppard, and State Farm Mutual Automobile Insurance Company appeal the circuit court’s grant of summary judgment to Sentry Insurance on Sentry’s petition for declaratory judgment. Sentry’s petition had requested a declaration that an insurance policy Sentry issued to Knox provided no liability coverage for damages Knox caused in an automobile collision. Knox contends that the court erred in granting summary judgment because: (1) The “non-owned automobile” policy Sentry issued Knox insured Knox for the vehicle he was driving at the time of the collision (2) Sentry relied on hearsay to support its motion for summary judgment in violation of Missouri Supreme court Rule 74.04, and (3) Sentry failed to prove the non-viability of Knox’s affirmative defenses of waiver and estoppel.

**REVERSED AND REMANDED**

**Division One holds:**

The circuit court erred in granting Sentry’s motion for summary judgment because Sentry failed to controvert Knox’s affirmative defenses.

Opinion by James Edward Welsh, Judge

December 20, 2011

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