

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

COMPLETE TITLE OF CASE

HOPE'S WINDOWS, INC.,

Appellant,

v.

KENNETH McCLAIN,

Respondent.

DOCKET NUMBER WD75137

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: March 19, 2013

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable Brian C. Wimes, Judge

JUDGES

Division Two: Mitchell, P.J., and Newton and Hardwick, JJ.

CONCURRING.

ATTORNEYS

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Bonner Springs, KS

Attorney for Appellant,

Gregory Leyh
Gladstone, MO

Attorney for Respondent.

3. Here, the contract contained a forum-selection clause, and McClain never challenged that clause as being the product of fraud or overreaching. Thus, McClain waived the right to challenge the New York court's personal jurisdiction over him. The trial court's analysis of minimum contacts is misplaced in light of McClain's waiver. Because there were no allegations of fraud or overreaching, the trial court should have enforced the forum-selection clause.

Opinion by: Karen King Mitchell, Presiding Judge

March 19, 2013

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