

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**ABB, INC.**

**APPELLANT,**

**v.  
SECURITAS SECURITY SERVICES  
USA, INC.**

**RESPONDENT.**

---

DOCKET NUMBER WD75228

DATE: November 20, 2012

---

Appeal From:

Cole County Circuit Court  
The Honorable Byron L. Kinder, Judge

---

Appellate Judges:

Division Three: Alok Ahuja, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin,  
Judge

---

Attorneys:

Bruce C. Oetter, Dennis E. O'Connell and Thomas C. Walsh, St. Louis, MO, for appellant.

Debbie S. Champion, Kevin P. Schnurbusch and Victor H. Essen II, St. Louis, MO, for  
respondent.

---

**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**ABB, INC.,**

**APPELLANT,**

**v.**

**SECURITAS SECURITY SERVICES  
USA, INC.,**

**RESPONDENT.**

No. WD75228

Cole County

Before Division Three: Alok Ahuja, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

ABB, Inc. ("ABB") filed a declaratory judgment action against Securitas Security Services USA, Inc. ("Securitas") that asked the trial court to declare that a security services agreement did not require ABB to defend or indemnify Securitas against or from claims asserted by ABB employees. Securitas filed a counterclaim against ABB for breach of contract. ABB and Securitas filed cross motions for summary judgment that addressed ABB's declaratory judgment action. The trial court entered summary judgment in favor of Securitas on the declaratory judgment action concluding that the agreement required ABB to indemnify Securitas. The trial court noted that Securitas's counterclaim for breach of contract remained and certified its judgment as final for purpose of appeal pursuant to Rule 74.01(b). ABB appeals.

**DISMISSED.**

**Division Three holds:** In order to have jurisdiction over an appeal, the trial court must issue a final judgment. Rule 74.01(b) allows a trial court to characterize a judgment as "final" even though it disposes of fewer than all claims or parties "upon an express determination that there is no just reason for delay." The trial court's expression is not conclusive, however. To be "final" for purposes of appeal, a judgment must dispose of a distinct judicial unit. A judicial unit is the compilation of allegations seeking to enforce a single legal right, whether or not asserted in several claims or counts, or as requests for multiple remedies. An appeal must be dismissed if the remaining claims or counts arise from the same set of facts, or the same transactions or occurrences, as the claim or count appealed.

Securitas's counterclaim for breach of contract arose from the same contract -- the security services agreement -- as ABB's petition for declaratory judgment. Both actions rely on the interpretation of the security services agreement, in particular the extent to which the agreement requires ABB to defend and indemnify ABB. Thus, the sole judicial unit at issue in this case has not been fully disposed as Securitas's counterclaim has not yet been determined. ABB's appeal is dismissed for lack of jurisdiction.

Opinion by Cynthia L. Martin, Judge

November 20, 2012

\*\*\*\*\*

**This summary is UNOFFICIAL and should not be quoted or cited.**