

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

REVERSE MORTGAGE SOLUTIONS, INC.,

Respondent

v.

THE ESTATE OF THEODORE R. HUNTER, ET AL.

Appellants

DOCKET NUMBER WD77940

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: SEPTEMBER 15, 2015

Appeal From:

Circuit Court of Jackson County, MO
The Honorable James Dale Youngs, Judge

Appellate Judges:

Division One
Cynthia L. Martin, P.J., Joseph M. Ellis, and James Edward Welsh, JJ.

Attorneys:

Brandon Kinney, Butler, MO

Counsel for Appellants

Attorneys:

Mark M. Haddad, Kansas City, MO

Counsel for Respondent

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

**REVERSE MORTGAGE SOLUTIONS, INC., Respondent, v.
THE ESTATE OF THEODORE R. HUNTER, ET AL., Appellants**

WD77940

Jackson County

Before Division One Judges: Martin, P.J., Ellis, and Welsh, JJ.

In 2007, Theodore Hunter executed and delivered to Reverse Mortgage Solutions two deeds of trust on his residential property as consideration for a reverse mortgage loan. After Hunter died intestate in 2011, Reverse Mortgage discovered that the legal descriptions in the deeds of trust were incorrect. Reverse Mortgage filed a lawsuit against the Estate of Theodore Hunter, seeking to reform the deeds of trust and to "quiet title" in the property. Reverse Mortgage then filed a motion for summary judgment and statement of uncontroverted facts, to which the Estate failed to timely respond. The circuit court granted summary judgment in favor of Reverse Mortgage, ordering reformation of the deeds of trust and granting quiet title relief. The Estate appeals.

Affirmed.

Division One holds:

Due to the Estate's failure to file a timely response to Reverse Mortgage's summary judgment motion and statement of uncontroverted facts, Reverse Mortgage's statements of fact were deemed admitted under Rule 74.04(c)(2). The Estate could not rely upon the denials and allegations in its pleadings to establish a disputed issue of material fact, and, thus, the Estate failed to establish or preserve any disputes of material fact so as to preclude summary judgment.

Because the Estate failed to properly plead the affirmative defense that Reverse Mortgage's requested relief was barred by Missouri's nonclaim statute, § 473.360, RSMo, the circuit court did not err in granting summary judgment in favor of Reverse Mortgage, without regard to whether the reformation action was time barred.

The judgment is affirmed.

Opinion by James Edward Welsh, Judge

September 15, 2015

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