

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

CHAO VANG

Respondent

v.

CHER'RON BARNEY

Appellant

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DOCKET NUMBER WD78415

DATE: February 2, 2016

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Appeal From:

Circuit Court of Jackson County, MO  
The Honorable Robert Lynn Trout, Judge

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Appellate Judges:

Division Four  
Alok Ahuja, Chief Judge Presiding, Thomas H. Newton, and James E. Welsh, JJ.

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Attorneys:

Cher'Ron Barney, Kansas City, MO

Appellant Acting Pro Se

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Attorneys:

Chao Vang, Grandview, MO

Respondent Acting Pro Se

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

CHAO VANG, Respondent, v.  
CHER'RON BARNEY, Appellant

**WD78415**

**Jackson County**

Before Division Four Judges: Ahuja, C.J., Newton, and Welsh, JJ.

Vang filed a Petition to Evict and scheduled a hearing after a dispute with Barney about rent and housing conditions. Barney responded by filing a counterclaim. At the time of the hearing, Vang was present and Barney was not. In Barney's absence, the case was heard, her counterclaims were dismissed, and judgment was entered against her. Shortly after the hearing, Barney filed a motion to set aside judgment requesting a new trial and that the evidence be reopened. The trial court denied this motion. Barney appeals.

**REVERSED.**

**Division Four holds:**

Rule 74.06(b) governs relief from judgments on the basis of mistake. Mistake has been defined as an "erroneous mental condition, conception, or conviction, induced by ignorance, misapprehension, or misunderstanding of the truth, but without negligence, and resulting in some act or omission done or suffered erroneously by one or both of the parties to a transaction, but without its erroneous character being intended or known at the time."

For guidance, we look to cases involving mistake under Rule 74.05(d). They establish that a defendant is entitled to an evidentiary hearing on a motion to set aside a default judgment when the motion satisfies the rule's pleading requirements. Barney stated in her motion that she missed the hearing because she was unintentionally in the wrong division. The facts set forth in her motion, if established through competent evidence, could have supported a finding of mistake, which is among the acceptable grounds to set aside a judgment under 74.06(b). Therefore, the trial court abused its discretion in denying Barney's motion without granting her an evidentiary hearing to prove her alleged mistake.

Thus, we reverse the trial court's judgment denying Barney's motion to set aside judgment and remand for the trial court to consider evidence in support.

Opinion by Thomas H. Newton, Judge

February 2, 2016

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**THIS SUMMARY IS UNOFFICIAL AND SHOULD**