

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**AMY LEIGH SAUVAIN, ET AL.**

**APPELLANTS,**

**v.  
ACCEPTANCE INDEMNITY  
INSURANCE COMPANY**

**RESPONDENT.**

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DOCKET NUMBER WD79198

DATE: October 4, 2016

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Appeal From:

Clay County Circuit Court  
The Honorable Janet L. Sutton, Judge

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Appellate Judges:

Division Two: Karen King Mitchell, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

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Attorneys:

M. Blake Heath, Kansas City, MO and Michael W. Blanton, Denver, CO, for appellants.

Susan F. Robertson, Kansas City, MO, for respondent.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**AMY LEIGH SAUVAIN, ET AL.,**

**APPELLANTS,**

**v.**

**ACCEPTANCE INDEMNITY INSURANCE COMPANY,**

**RESPONDENT.**

No. WD79198

Clay County

Before Division Two: Karen King Mitchell, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

Appellants Amy Sauvain, Ericka Sauvain, and Bonnie Hughes (collectively "Plaintiffs") appeal from the Circuit Court of Clay County's granting of Acceptance Indemnity Insurance Company's ("Acceptance") Motion to Quash a garnishment sought by the Plaintiffs. Plaintiffs sought to collect damages beyond insurance policy limits in a garnishment action under Chapter 525 and Rule 90 because Acceptance allegedly breached its duty to defend its insured in an underlying personal injury case. Acceptance sought to quash the garnishment because the alleged breach had not yet been adjudicated and could not be decided within a Chapter 525 and Rule 90 garnishment. The circuit court agreed. Plaintiffs appeal.

**WE AFFIRM**

**Division Two holds:**

The trial court did not err in finding that, within a Chapter 525 and Rule 90 garnishment action, it was not authorized to grant a garnishment for damages beyond policy limits for an alleged breach of Acceptance's duty to defend because the alleged breach had not been adjudicated and could not be determined in the garnishment action. The opinion provides an analysis of the differences between a Chapter 525 and Rule 90 garnishment action and a section 379.200 "equitable garnishment proceeding."

Opinion by Gary D. Witt, Judge

October 4, 2016

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