OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

ASSURANCE GENERAL CONTRACTING, LLC,	)	No. ED107390
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of St. Louis County
vs.	)	
	)	Honorable Ellen H. Ribaudo
HELAL EKRAMUDDIN, ET AL.,	)	
	)	
Respondents/Cross-Appellants.	)	Filed: April 14, 2020

Assurance General Contracting, LLC, the plaintiff in this case, ("AGC/Appellant") appeals, and HK Internal Medicine Associates, LLC ("Respondent or HK") cross-appeals, from the trial court's amended judgment, entered after a jury verdict awarding no money to AGC/Appellant but the trial court awarding pre-judgment interest to AGC/Appellant in the amount of $6,894.24.

AFFIRM IN PART, REVERSE IN PART.

Division One Holds: On its Batson challenge, AGC/Appellant did not overcome its burden and demonstrate that Respondent's reason for striking Venireperson No. 20 was pretext for racial discrimination at trial, and AGC/Appellant is barred from arguing on appeal what it failed to argue then. AGC/Appellant's first point is denied. Additionally, the trial court did not abuse its discretion in excluding evidence of lost profits for AGC/Appellant when AGC/Appellant could not demonstrate that the lost profits from other projects was lost as a result of Respondent's actions rather than its own decision. The exclusion of the evidence did not prejudice AGC/Appellant and its second point is denied.

On Respondent's cross-appeal, we find the trial court erred in awarding pre-judgment interest to AGC/Appellant pursuant to Section 408.020 when the jury found against AGC/Appellant and the amount awarded on the breach of contract claim was zero. The prejudgment interest award is reversed.

Opinion by: Roy L. Richter, Judge

Robert M. Clayton III, Presiding Judge, and Robert G. Dowd, Jr., Judge, concur.

Attorney for Appellant: David C. Knieriem

Attorneys for Respondent: Paul N. Rechenberg, Elizabeth A. Rechenberg

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