MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DAY ADVERTISING, INC., ET AL,

Appellants

v.

PAUL HASTY JR, ET AL.,

Respondent

DOCKET NUMBER WD83379

DATE: July 21, 2020

Appeal From:

Circuit Court of Jackson County, MO
The Honorable John M. Torrence, Judge

Appellate Judges:

Division Two
Karen King Mitchell, Chief Judge, Presiding, Anthony Rex Gabbert, Judge,
W. Douglas Thomson, Judge

Attorneys:

Paul Andrew Burnett, Clayton, MO,
Counsel for Appellants

Attorneys:

Derek H. Mackay, Kansas City, MO,
Counsel for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DAY ADVERTISING, INC., ET AL, Appellants,
v.
PAUL HASTY JR, ET AL., Respondent

WD83379 **Jackson County**

Before Division Two Judges: Karen King Mitchell, Chief Judge, Presiding, Anthony Rex Gabbert, Judge, and W. Douglas Thomson, Judge

Day Advertising, Inc., Heartland Title Services, Inc., and James C. Day ("Appellants" collectively) appeal the circuit court's grant of summary judgment to Paul Hasty, Jr. and Hasty and Associates, LLC ("Respondents" collectively) on Appellants' September 5, 2018, Petition alleging legal malpractice against Respondents. Appellants assert six points on appeal claiming the circuit court, 1) erred in granting summary judgment on the claim regarding Day Advertising, Inc. ("Day Advertising"), arguing the circuit court improperly based its ruling on an argument not raised by Respondents, 2) erred in granting summary judgment on the claim regarding Day Advertising, because genuine issues of material fact existed as to whether Eric Johnson damaged Day Advertising, 3) erred in granting summary judgment on the claim regarding Heartland Title Services, Inc. ("Heartland"), because genuine issues of material fact existed as to whether the claim was timely filed, 4) erred in granting summary judgment on the individual claims of James Day, arguing Day had cognizable claims with allegations of compensable damage against Respondents, 5) erred in granting summary judgment on Appellants' claim of fraudulent misrepresentation, arguing genuine issues of material fact existed that precluded judgment as a matter of law, and 6) erred in severing Appellants' claims for trial after dismissing Day's individual claims, arguing the claims were not misjoined and arose from the same series of transactions or occurrences.

AFFIRMED.

Division Two holds:

1) The circuit court did not err in granting summary judgment on the claim regarding Day Advertising by allegedly improperly considering damage caused by Eric Johnson in its ruling as the issue of damages caused by Eric Johnson was before the court.

2) The circuit court did not err in granting summary judgment on the claim regarding Day Advertising as Appellants presented insufficient evidence from which a reasonable juror could determine what damages, if any, Eric Johnson caused Day Advertising.

3) The circuit court did not err in granting summary judgment on the claim regarding Heartland as no genuine issue of material fact existed as to whether the claim was timely filed.

4) The circuit court did not err in granting summary judgment on the individual claims of James Day, as Appellant Day presented insufficient evidence from which a reasonable juror could conclude that Day suffered individual damages.

5) The circuit court did not err in granting summary judgment on Appellants' claim of fraudulent misrepresentation as Appellants presented insufficient evidence from which a reasonable juror could conclude that Respondent Hasty represented to Appellants at the time of contracting that he intended to take the matter to trial, and knew that representation was false at the time he began representing Appellants.

6) We need not determine whether the circuit court erred in severing Appellants' claims for trial after dismissing Day's individual claims, as we affirm the circuit court's summary judgment rulings and no prejudice can result where no trial will be had.

Opinion by: Anthony Rex Gabbert, Judge Date: July 21, 2020

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