MISSOURI COURT OF APPEALS
WESTERN DISTRICT

TIFFANY TRAWEEK,

Appellant,

v.

TIMOTHY SMITH and DAVIS & BELL AUCTION SERVICE, L.L.C.,

Respondents.

DOCKET NUMBER WD83291

Date: September 8, 2020

Appeal from:

Johson County Circuit Court
The Honorable Mike Wagner, Judge

Appellate Judges:

Division Three: Gary D. Witt, Presiding Judge, Lisa White Hardwick and Thomas N. Chapman, Judges

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Attorneys:
Edward A. Williams, Kansas City for appellant.
Molly B. Bartalos, Kansas City for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

TIFFANY TRAWEEK, Appellant,
v.
TIMOTHY SMITH and DAVIS & BELL AUCTION SERVICE, L.L.C., Respondents.

WD83291 Johson County

Before Division Three Judges: Gary D. Witt, Presiding Judge, Lisa White Hardwick and Thomas N. Chapman, Judges

Tiffany Traweek appeals from the summary judgment granted in favor of Timothy Smith and Davis & Bell Auction Service, LLC (collectively, "Respondents") on her amended petition for damages. Traweek contends that summary judgment was premature because the circuit court did not allow her sufficient time to conduct discovery on her reformation claim. She also argues that the court's summary judgment did not address her reformation claim.

REVERSED AND REMANDED.

Division Three holds:

The court abused its discretion in denying Traweek's request for a continuance and ruling on Respondents' summary judgment motion two weeks after granting Traweek leave to amend her petition to add her claim of reformation of a release. Traweek met Rule 74.04(f)'s requirements for a continuance of the court's ruling on Respondents' summary judgment motion, as (1) her counsel's affidavit sufficiently described the additional evidence that the discovery she was seeking would elicit; and (2) Traweek demonstrated that this additional evidence, when combined with other evidence in the case, would create a genuine issue of material fact on the existence of a mutual mistake justifying reformation of the release.

Opinion by: Lisa White Hardwick, Judge September 8, 2020

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