Summary of SC98323, *State ex rel. Vacation Management Solutions, LLC v. The Honorable Joan L. Moriarty*

Proceeding originating in the St. Louis circuit court, Judge Joan L. Moriarty
Argued and submitted September 1, 2020; opinion issued November 24, 2020

Attorneys: Vacation Management was represented by Benjamin David Scrivner of Scrivner Law LLC in St. Louis, (314) 727-7100. Klosterman was represented by Bryan Brody and Alexander J. Cornwell of Brody & Cornwell in St. Louis, (314) 932-1068.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A company seeks a permanent writ ordering the circuit court to transfer venue. In a unanimous decision written by Judge Mary R. Russell, the Supreme Court of Missouri makes its preliminary writ permanent. The plaintiff failed to file a timely reply to the company's motion to transfer venue, requiring transfer of the case to a venue specified in the motion.

Facts: Kyle Klosterman sued Vacation Management Solutions LLC in St. Louis circuit court alleging the company violated the state's merchandising practices act. The company filed a motion to dismiss and a motion to transfer venue to either St. Charles County or Warren County. Klosterman did not reply to the company's motion to transfer venue within 30 days. The circuit court overruled the company's motion to dismiss but did not rule on the motion to transfer venue. The company sought relief from this Court, which issued a preliminary writ of mandamus prohibiting the circuit court from taking any action other than transferring venue.

PRELIMINARY WRIT MADE PERMANENT.

Court en banc holds: Because Klosterman failed to respond to the company's proper motion to transfer venue within 30 days, as is required under Rule 51.045, the circuit court must transfer venue to either St. Charles County or Warren County – the counties specified in the transfer motion. The circuit court's Local Rule 33.7.2 does not prevent this writ from issuing as it does not require a hearing be held on a transfer motion before a ruling is made and, as a local court rule, cannot be inconsistent with this Court's rules.