MISSOURI COURT OF APPEALS
WESTERN DISTRICT

TIFFANIE SOETAERT,

Appellant-Respondent

v.

NOVANI FLIPS, LLC, Respondent

PLATINUM REALTY OF MISSOURI, LLC,

Respondent-Appellant

DOCKET NUMBER WD82933 - Consolidated with: WD82964

DATE: AUGUST 3, 2021

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Kevin D. Harrell, Judge

Appellate Judges:

Division One
Alok Ahuja, Presiding Judge, Lisa White Hardwick, Judge, Anthony Rex Gabbert, Judge

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Attorneys:

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Counsel for Appellant-Respondent

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MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

TIFFANIE SOETAERT, Appellant-Respondent,
v.
NOVANI FLIPS, LLC, Respondent,
PLATINUM REALTY OF MISSOURI, LLC, Respondent-Appellant.

WD82933 (Consolidated with WD82964) **Jackson County**

Before Division One Judges: Alok Ahuja, Presiding Judge, Lisa White Hardwick, Judge, and Anthony Rex Gabbert, Judge

Tiffanie Soetaert and Platinum Realty of Missouri, LLC ("Platinum") appeal and cross-appeal the judgment of the Jackson County Circuit Court awarding Soetaert compensatory damages, punitive damages, and attorneys' fees in Soetaert's suit for violation of the Missouri Merchandising Practices Act ("MMPA) against Platinum, Novani Flips, LLC, and MoreKC1, LLC. In three points on appeal, Platinum claims the trial court erred in finding it was liable under the MMPA, in instructing the jury, and in awarding punitive damages. In one point on appeal, Soetaert claims the trial court erred in determining the amount of attorneys' fees awarded.

AFFIRMED IN PART, REVERSED AND REMANDED IN PART.

Division One holds:

1. A submissible case is made under the MMPA with the limits placed by sections 339.730 and 339.190, RSMo, where sufficient evidence is presented that a real estate agent knew or should have known about defects in a basement and where sufficient evidence is presented that a real estate agent acted in reckless disregard as to whether statements contained in the disclosure were true or false.

2. A jury was properly instructed where it had to find that a real estate agent misrepresented or concealed a material fact about the condition of the real estate which was known or should have been known by the agent. An argument that the jury should have also been instructed that it had to find the real estate agent acted with reckless disregard is without merit because the two standards are the same thing in this context. Further, an argument that the jury should have been instructed that the real estate agent had no duty to conduct an investigation is without merit where no party argued that such a duty existed.

3. A submissible case for punitive damages is made where a defendant's evil motive can be inferred when the defendant recklessly disregards the interests and rights of the plaintiff and where sufficient evidence of such reckless disregard was presented to the jury.

4. An award of attorney's fees is an abuse of discretion where the trial court only considered the time an attorney spent or planned to spend in trial and did not consider any of the work done by the attorney prior to trial.

Opinion by: Anthony Rex Gabbert, Judge Date: August 3, 2021

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