OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

MATTHEW G. O'NEILL, Respondent,	)	No. ED102038
	)	Appeal from the Circuit Court of
vs.	)	the City of St. Louis
	)	Honorable Elizabeth B. Hogan
STEFANIE D. O'NEILL, Appellant.	)	Filed: March 31, 2015

Stefanie O'Neill (Wife) appeals a judgment of the Circuit Court of the City of St. Louis denying her motion to set aside a default judgment dissolving her marriage to Matthew O'Neill (Husband), distributing property, ordering child support, and awarding the parties joint legal and physical custody of the parties' three minor children.

REVERSED AND REMANDED.

Division Four Holds: The trial court abused its discretion in entering and refusing to set aside the default judgment. Wife took affirmative action to defend against Husband's petition for dissolution of marriage when she appeared in court and presented a written answer to the trial court. Wife complied with the trial court's order continuing the case to May 20, 2014 to allow Wife to retain a lawyer and/or file an answer. Accordingly, the trial court had no basis for entering a default judgment under Rule 74.05(a) when she attempted to file her answer on that date "with the judge" as permitted by Rule 43.02(b).

Opinion by: Patricia L. Cohen, P.J.
Roy L. Richter, J., and Robert M. Clayton III., J., concur.

Attorney for Appellant: Mary D. Benoit
Attorney for Respondent: Sharon E. Cody

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.