

**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

**DIVISION FIVE**

MICHAEL D. CROSSMAN and	)	No. ED91947
KIMBERLY H. CROSSMAN, husband	)	
and wife, Appellants,	)	Appeal from the Circuit Court
	)	of St. Charles County
vs.	)	
	)	
PETER YACUBOVICH and SHARON	)	
YACUBOVICH, et al., Respondents.	)	Filed: June 16, 2009

The plaintiff homeowners, Michael and Kimberly Crossman, appeal from summary judgment entered by the Circuit Court of St. Charles County against them and in favor of the defendant insurer, Lawyers Title Insurance Corporation.

**AFFIRMED IN PART AND REVERSED AND REMANDED IN PART**

**DIVISION FIVE HOLDS:** The subdivision plat does not clearly, precisely, and unambiguously identify the three petroleum-pipeline easements that cross the homeowners' property; rather it implies that all easements on the plat are for utility purposes, and it shows the easement in a "substandard way." Thus, the plat is ambiguous, which renders ambiguous the title-insurance policy exception incorporating the plat. Therefore, we hold that the title-insurance policy does not clearly, precisely, and unambiguously except the petroleum-pipeline easements from coverage. Thus, the insurer has not established that it is entitled to judgment as a matter of law on the homeowners' counts for breach of contract, vexatious refusal to pay, and declaratory judgment. We reverse and remand these counts to the trial court for further proceedings consistent with this opinion. We affirm the trial court's judgment on the homeowners' count for negligent misrepresentation.

Opinion by: Lawrence E. Mooney, J.                      Nannette A. Baker, C.J. and Kurt S. Odenwald, J., concur.

Attorneys for Appellants:     Gary M. Siegel and Gina C. Mitten

Attorneys for Respondents:   William L. Sauerwein and John Hein

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