

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

JASON GRELLNER, et al.,	)	No. ED92196
Appellants,	)	Appeal from the Circuit Court
	)	of Franklin County
vs.	)	
	)	Honorable Anna Forder
FOREMOST SIGNATURE INSURANCE	)	
COMPANY and LAMAR	)	
INTERNATIONAL, INC., D/B/A	)	
LAMAR INTERNATIONAL REALTORS,	)	
Defendants,	)	
and	)	
GREEN TREE SERVICING, LLC,	)	
Respondent.	)	FILED: July 14, 2009

Jason Grellner ("Grellner") appeals the trial court's judgment granting Green Tree Servicing, LLC's ("Green Tree/Conseco") motion to dismiss.

REVERSED AND REMANDED

Division Two Holds:

Because the trial court examined matters outside the pleadings when it considered the bankruptcy discharge, Green Tree/Conseco's motion to dismiss should have been treated as a motion for summary judgment. We reverse and remand with directions to the trial court to allow Green Tree/Conseco to re-file its motion in compliance with Missouri Supreme Court Rule 74.04(c).

Opinion by: Roy L. Richter, P.J.      Lawrence E. Mooney, J. and George W. Draper III, J., concur

Attorneys for Appellant:      Rick Barry, Kevin J. Dolley

Attorneys for Respondent:      David G. Wasinger, James S. Cole, Michael Daming

**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.**