

**OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS EASTERN DISTRICT**  
**DIVISION FOUR**

DOROTHY SZRAMKOWSKI,	)	No. ED93149
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of St. Louis County
vs.	)	
	)	Honorable Mary Bruntrager Schroeder
JOSEPH SZRAMKOWSKI,	)	)
	)	Cause No. 2106FC-10467
Appellant.	)	
	)	FILED: June 8, 2010

In this consolidated appeal, Joseph Szramkowski (hereinafter, “Husband”) appeals from the trial court’s judgment dissolving his marriage to Dorothy Szramkowski (hereinafter, “Wife”) after finding the marriage was irretrievably broken. Husband raises five points on appeal, which we addressed out of order for the sake of clarity. First, Husband claims the trial court’s finding Wife had the mental capacity to institute the dissolution action was against the weight of the evidence. Second, Husband claims the trial court erred in permitting the dissolution proceeding to go forward because there was not a real party in interest bringing the lawsuit after Wife was adjudicated incapacitated and disabled. In her cross-appeal, Wife argues the trial court erred in denying her motion for leave to amend her petition and to substitute parties to remedy this alleged deficiency. Third, Husband argues the trial court’s finding that Wife had the mental capacity to testify on her own behalf was not supported by substantial evidence. Fourth, Husband argues the trial court’s finding that the parties’ marriage was irretrievably broken was not supported by substantial evidence. Fifth, Husband argues the trial court erred in awarding fees to the guardian ad litem in the dissolution matter because the trial court lacked jurisdiction to continue the guardian ad litem’s participation in the dissolution matter after the probate court appointed Wife a guardian.

AFFIRMED AS MODIFIED.

Division IV holds: (1) Wife had the mental capacity to institute the dissolution action. (2) The trial court erred in failing to grant Wife leave to amend her petition or to substitute parties but this error was not fatal to the petition in that the defect could be cured by amendment. In light of the lack of prejudice to Husband because all of the parties were present before the trial court, we will grant such judgment as ought to be given pursuant to Rule 84.14. (3) Wife had the capacity to testify at the dissolution hearing. (4) There was competent and substantial evidence presented that supported the trial court’s judgment that the marriage was irretrievably broken. (5) The trial court did not abuse its discretion in ordering Husband to pay the guardian ad litem fees.

Opinion by: George W. Draper III, J.

Kurt S. Odenwald, P.J., and  
Sherri B. Sullivan, J., concur

Attorneys for Appellants: Brian H. May  
Attorney for Respondents: Mark W. Hagemeister  
Guardian Ad Litem: Brian D. Dunlop

**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.**