

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

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| PATRICIA WILLITS, et al., |) | No. ED94777 |
| |) | |
| Appellants, |) | Appeal from the Circuit Court |
| |) | of the City of St. Louis |
| vs. |) | |
| |) | |
| PEABODY COAL COMPANY, LLC, |) | |
| et al., |) | Hon. Robert H. Dierker |
| |) | |
| Respondents. |) | FILED: December 28, 2010 |

Patricia Willits, William G. Parrott, Jr., and Donald Petrie, Trustee of the PPW Royalty Trust, collectively “Plaintiffs” appeal from the judgment of the trial court denying their motion for partial summary judgment and granting the motions for summary judgment of the Peabody Defendants and the Armstrong Defendants.

AFFIRMED.

DIVISION THREE HOLDS:

1. Plaintiffs had an overriding royalty interest in the Beaver Dam Lease. This overriding royalty interest terminated when the lease on which it was based ended, as there was no fraud, no breach of a fiduciary relationship, and no agreement to continue the royalty interest after the termination of the Beaver Dam Lease.
2. A tenant in common cannot bind the estate or person of the other tenants in common by any act relating to the common property when dealing with third parties, absent authorization to do so. Accordingly, where the Plaintiffs’ royalty interest was granted by a tenant in common, that royalty interest did not survive the termination of the tenancy in common that resulted when all of the interests were united in a single owner that created a fee simple interest in severalty.

Opinion by: Clifford H. Ahrens, J. Sherri B. Sullivan, P.J., and Lawrence E. Mooney, J., concur.

Attorney for Appellant: Gerard Carmody and George A. Barton

Attorney for Respondent: John S. Sandberg, Thomas B. Weaver and Mason L. Miller

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| 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. |
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