

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

RIVER CITY DEVELOPMENT	)	No. ED95222
ASSOCIATES, LLC, Appellant,	)	
	)	
vs.	)	
	)	Appeal from the Circuit Court of
ACCURATE DISBURSING COMPANY,	)	St. Louis County
LLC and MONTGOMERY BANK, NA,	)	
Defendants,	)	
	)	Honorable Tommy W. DePriest, Jr.
and	)	
	)	
RCDA, LLC, Respondent.	)	Filed: July 5, 2011

River City Development Association, LLC (Plaintiff) appeals from the judgment of the Circuit Court of St. Louis County entered after a jury found in favor of RCDA, LLC (Defendant) on Plaintiff's claims for breach of contract and default on a promissory note. Plaintiff contends that the trial court erred in denying its motion for a new trial because: (1) with respect to the breach of contract claim, the judgment was "clearly against the weight of the evidence"; and (2) with respect to the default on a promissory note claim, "the uncontroverted evidence was that Defendant never tendered the proper amount of interest to satisfy its financial obligations under the note."

AFFIRMED

Division Five Holds: The trial court did not abuse its discretion in denying Plaintiff's motion for a new trial because: (1) with respect to the breach of contract claim, Plaintiff, while framing its Point Relied On in terms of "against the weight of the evidence," substantively argues that the judgment in favor of Defendant was not supported by substantial evidence, which is not a question amenable for appeal, and, to the extent Plaintiff asserts that it was entitled to a judgment as matter of law, Plaintiff failed to preserve its claim by filing a motion for directed verdict; and (2) with respect to the default on a promissory note claim, Plaintiff's claim that the uncontroverted evidence did not support the judgment for Defendant is without merit because the jury was free to disbelieve Plaintiff's uncontroverted evidence and find for Defendant, and, to the extent Plaintiff asserts that it was entitled to a judgment as matter of law, Plaintiff failed to preserve its claim by filing a motion for directed verdict.

Opinion by: Patricia L. Cohen, J.      Mary K. Hoff, P.J. and Glenn A. Norton, J., concur.

Attorney for Appellant:      Gary A. Growe

Attorney for Respondent:      David H. Luce

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