

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

MOORE AUTOMOTIVE GROUP, INC.,) No. ED95870
Respondent,)
)
vs.) Appeal from the Circuit Court of
) St. Louis County
)
JULIE D. LEWIS, Appellant,)
)
and) Honorable Melvyn W. Wiesman
)
)
KEVIN M. LEWIS, Defendant.) Filed: March 20, 2012

Julie Lewis (Defendant) appeals the trial court's grant of summary judgment to Moore Automotive Group, LLC (Plaintiff) in the amount of \$2,401,432.35 on its claims for conversion and breach of fiduciary duty. Defendant contends the trial court improperly relied on the collateral source doctrine to preclude Defendant from introducing evidence of payments that Plaintiff received from other sources and that summary judgment was inappropriate because there was a genuine issue of fact as to the amount of Plaintiff's damages.

REVERSE AND REMAND.

Division Four Holds: The trial court erred in granting summary judgment in favor of Plaintiff because Defendant demonstrated the existence of a genuine factual dispute as to the amount of Plaintiff's damages where: (1) Defendant introduced sufficient evidence to raise an issue regarding whether funds Plaintiff received in settlement of claims against its accounting firm were intended to compensate Plaintiff for the injury caused by Defendant, thus entitling Defendant to an offset; and (2) the collateral source rule does not support the exclusion of evidence relating to the funds Plaintiff received in settlement of its claims against its accounting firm.

Opinion by: Patricia L. Cohen, J.
Kurt S. Odenwald, C.J., and Robert M. Clayton III, J., concur.

Attorney for Appellant: Sanford Goffstein

Attorney for Respondent: David G. Wasinger

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.