

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION TWO

JAMES P. BANKS,)	No. ED96953
)	
Appellant,)	
)	Appeal from the Circuit Court of
v.)	the County of St. Louis
)	Cause No. 09-PS-PR00316
CENTRAL TRUST AND)	Honorable John Ross
INVESTMENT CO., et al.,)	
)	
Respondents,)	Filed: March 20, 2012

James P. Banks appeals the trial court’s grant of judgment on the pleadings in favor of his brother and sister, John Banks and Susan Gaertner. Appellant claims the trial court erred in judgment based on the doctrine of judicial estoppel as there remained genuine issues of material fact regarding the validity of a purported amendment to the parties’ mother’s living trust.

AFFIRMED.

DIVISION TWO HOLDS: While the trial court erred in granting summary judgment based on the doctrine of judicial estoppel as there remained an issue as to whether warranties previously made by Appellant were founded on a good faith mistake, Respondents were still entitled to judgment as a matter of law as the undisputed facts show that there was no delivery of the “amendment” as required by the terms of the trust.

Opinion by: Kenneth M. Romines, J.
Lawrence E. Mooney, P.J. and, Roy L. Richter, J., concur.

Attorneys for Appellant James P. Banks: Richard J. Magee

Attorneys for Respondent John L. Banks, Jr. and Susan Gaertner: Robert J. Selsor, Katie R. Jones

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