

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

CRAIG P. KISER, Respondent,	)	No. ED98662
	)	
v.	)	Appeal from the Circuit Court
	)	of St. Louis County
WILLIAM WIDEMAN, SR., JAMES C.	)	
WIDEMAN, and PARADISE	)	Hon. Steven H. Goldman
FIBERGLASS POOLS, LLC, Appellants.	)	Filed: June 28, 2013

William Wideman, Sr., James Wideman, (“the Widemans”) and Paradise Fiberglass Pools, LLC appeal from the trial court’s entry of a default judgment in favor of Craig Kiser (“Homeowner”). The Widemans and Paradise Fiberglass Pools, LLC make several arguments regarding the trial court’s failure to set aside the default judgments against them. In addition, the Widemans and Paradise Fiberglass Pools, LLC contend the trial court plainly erred in failing to immediately recuse itself *sua sponte* from hearing the cause.

DISMISSED IN PART AND REVERSED AND REMANDED IN PART.

Division Three Holds: The appeal is dismissed with respect to Paradise Fiberglass Pools, LLC. The trial court erred in denying the Widemans’ motion to set aside the interlocutory default judgment. Further, the trial court granted the Widemans’ an extension of time to file answer and the Widemans filed a timely response to Homeowner’s petition on June 23, 2011. Thus, the Widemans were not in default. The trial court erred in entering the February 14, 2012 default judgment and in denying their March 8, 2012 motion to set aside the default judgment. The trial court did not plainly err in failing to immediately recuse itself *sua sponte* from hearing the cause.

Opinion by: Robert G. Dowd, Jr., P. J.  
Roy L. Richter, J. and Angela T. Quigless, J., concur.

Attorney for Appellant: Kevin M. Whiteley

Attorney for Respondent: Frank W. Kriegel, Jr.

**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.**