

COMPLETE TITLE OF CASE:

**BARSTO CONSTRUCTION, INC., APPELLANT,
v.
GLADSTONE SENIOR PARTNERS, L.P., RESPONDENT.**

DOCKET NUMBER WD69266

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: November 18, 2008

Appeal From:

CLAY COUNTY CIRCUIT COURT
THE HONORABLE ANTHONY REX GABBERT, JUDGE

Appellate Judges:

Division Three: Joseph M. Ellis, Presiding Judge, Ronald R. Holliger and Joseph P. Dandurand,
Judges

Attorneys:

Thomas M. Moore, Kansas City, MO, for appellant.

William L. Burk, Kansas City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS, WESTERN DISTRICT

BARSTO CONSTRUCTION, INC., APPELLANT,
v.
GLADSTONE SENIOR PARTNERS, L.P., RESPONDENT.

No. WD69266

Clay County

Before Division Three Judges: Joseph M. Ellis, Presiding Judge, Ronald R. Holliger and Joseph P. Dandurand, Judges

Gladstone Senior Partners, L.P. failed to respond to a lawsuit instituted by Barsto Construction, Inc., resulting in a default judgment against Gladstone. Gladstone moved the trial court to set aside the default judgment, basing its claim of “good cause” for the default on an affidavit from an officer of the company, who attested that he believed updating the Texas Secretary of State as to the identity of its new general partner would update Gladstone’s registered agent in Missouri as well. The Missouri registered agent had not been informed of the change in general partner, which caused the default. The trial court set aside the default judgment.

AFFIRMED AND REMANDED.

Division Three holds:

The affidavit was sufficient to negate a finding of a reckless design by Gladstone to impede the judicial process. Therefore, the trial court did not abuse its discretion in finding that Gladstone had shown good cause for the default.

Opinion by: Ronald R. Holliger, Judge

Date: November 18, 2008

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