

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**EXCEL BANK,  
APPELLANT**

**vs.**

**NATIONAL BANK OF KANSAS CITY, d/b/a GREAT AMERICAN ACCEPTANCE  
COMPANY,  
RESPONDENT**

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DOCKET NUMBER WD69701

DATE: JUNE 30, 2009

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Appeal from:

Circuit Court of Jackson County, Missouri  
The Honorable Jack R. Grate, Judge

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Appellate Judges:

Division Three: James M. Smart, Jr., Joseph M. Ellis and James E. Welsh, JJ.

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Attorneys:

James A. Hanson, for Appellant

Cassandra L. Writz, for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**EXCEL BANK, APPELLANT**

**v.**

**NATIONAL BANK OF KANSAS CITY, d/b/a GREAT  
AMERICAN ACCEPTANCE COMPANY, RESPONDENT**

WD69701

Jackson County, Missouri

Before Division Three Judges: James M. Smart, Jr., Joseph M. Ellis and James E. Welsh, JJ.

Excel Bank ("Excel") appeals from a summary judgment in favor of National Bank of Kansas City d/b/a Great American Acceptance Company ("GAAC") on Excel's replevin action concerning eighteen vehicles that GAAC seized from a used car dealer, Miles Truck and Auto ("Miles"). GAAC had advanced money to Miles under a floor plan financial arrangement under which GAAC had a perfected security interest in Miles's inventory. When Miles defaulted on the financing arrangement, GAAC seized vehicles from Miles's inventory, including eighteen vehicles which Excel had placed with Miles for sale. Excel subsequently filed its replevin action attempting to recover those vehicles.

**AFFIRMED**

**Division Three holds:**

(1) The trial court did not err in finding that the transaction between Miles and Excel was a consignment arrangement where Miles was attempting to sell the vehicles, Miles would receive a \$400 commission on each vehicle sold at a price approved by Excel, and he was not obligated to pay for any of the vehicles for which no buyer was found. Accordingly, under the UCC, Excel was required to file a financing statement on the vehicles in order to perfect its security interest therein.

**Opinion by Joseph M. Ellis, Judge**

Date: June 30, 2009

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