

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**BAUER DEVELOPMENT LLC,
APPELLANT**

vs.

**BOK FINANCIAL CORP.,
RESPONDENT**

DOCKET NUMBER WD70044

DATE: JUNE 9, 2009

Appeal from:

Cass County Circuit Court
The Honorable Jacqueline A. Cook, Judge

Appellate Judges:

Division Three: Harold L. Lowenstein, P.J., Joseph M. Ellis and Lisa White Hardwick, JJ.

Attorneys:

Michelle N. Higinbotham, for Appellant

Scott D. Mosier, for Respondent

Charles S. Pullium, III, Co-counsel for Respondent

Mindy D. Smith, Co-counsel for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**BAUER DEVELOPMENT LLC, APPELLANT,
v.
BOK FINANCIAL CORP., RESPONDENT.**

WD70044

Cass County, Missouri

Before Division Three Judges: Harold L. Lowenstein, P.J., Joseph M. Ellis and Lisa White Hardwick, JJ.

Bauer Development, LLC appeals from a summary judgment granted in favor of BOK Financial Corporation d/b/a Bank of Oklahoma (“the Bank”) on Bauer’s petition for damages related to the foreclosure of certain real property on which Bauer Development held a second mortgage. In its petition, Bauer Development claimed that the Bank’s representative had promised to notify Bauer Development of the date and time of any foreclosure sale and the Bank had failed to provide that notice to the detriment of Bauer Development.

REVERSED AND REMANDED.

Division Three holds:

- (1) The trial court properly entered summary judgment on Bauer Development’s claim for unjust enrichment where Bauer Development failed to establish that it conferred a benefit on the Bank.
- (2) With regard to Bauer Development’s promissory estoppels claims, factual disputes remain as to: (1) whether the Bank promised to send notice of the foreclosure sale to Bauer Development at one of the listed contacts; (2) whether Bauer Development relied on any such promise to its detriment; and
- (3) whether Mike Bauer had actual notice and was present at the sale but neglected to bid. Because genuine disputes remain related to material facts, the trial court erred in entering summary judgment on this claim.

Opinion by: Joseph M. Ellis, Judge

Date: June 9, 2009

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