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COMPLETE TITLE OF CASE

**R. L. POLK & COMPANY, SAMBA HOLDINGS, INC., APPELLANT-RESPONDENTS
and
EXPERIAN INFORMATION SOLUTIONS, LLC., APPELLANT-RESPONDENT
vs.
MISSOURI DEPARTMENT OF REVENUE AND THE MISSOURI DIRECTOR OF
REVENUE, RESPONDENT-APPELLANTS**

DOCKET NUMBER WD70973 (Consolidated with WD70997, WD70998, WD71018)
**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: MAY 18, 2010

Appeal from:

The Circuit Court of Cole County, Missouri
The Honorable Richard G. Callahan, Judge

Appellate Judges:

Division Two: Mark D. Pfeiffer, P.J., Victor C. Howard and Alok Ahuja, JJ.

Attorneys:

Michael A. Dallmeyer, for Appellant-Respondent R. L. Polk & Company

Benjamin A. Lipman, for Appellant-Respondent Samba Holdings, Inc.

Mark E. Long, for Respondent-Appellant Missouri Department of Revenue and Missouri
Director of Revenue

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

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Cole County, Missouri

Before Division Two Judges: Mark D. Pfeiffer, P.J., Victor C. Howard and Alok Ahuja, JJ.

After the Department of Revenue implemented a fee of 3.82¢ per record for an electronic copy of a motor vehicle or drivers' license record, RL Polk & Company, Samba Holdings, Inc., and Experian Information Solutions, LLC filed an action against the Department challenging the fee. The trial court issued a judgment and permanent injunction in which it found that the fee violated section 610.026.1(2) of Missouri's Sunshine Law. The trial court declined to grant the companies' request for attorney's fees. The Department and the companies appeal.

AFFIRMED.

Division Two holds:

(1) Where the Department's 3.82¢ per record fee for the transfer of electronic records did not correspond to or properly account for the types of costs section 610.026.1(2) authorizes the Department to include in its fee, the trial court did not err in finding that section 610.026.1(2) does not authorize the Department to charge an across-the-board per record fee for electronic records, without any reference to the nature or size of a particular request.

(2) Where section 610.026.1(2) does not expressly set forth a method by which fees should be calculated for the transfer of electronic records, and a member of the Department testified that the Department's cost analysis was performed with the goal of establishing a new fee in compliance with the Sunshine Law, the trial court's finding that the Department did not purposefully or knowingly violate section 610.026.1(2) was not against the weight of the evidence.

Opinion by: Victor C. Howard, Judge

Date: May 18, 2010

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