

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**SHIRLEY WADE, Personal Representative
of the Estate of Clarissa E. Wade,**

RESPONDENT,

**v.
CLARION MORTGAGE CAPITAL, INC.,**

APPELLANT.

DOCKET NUMBER WD71128

DATE: May 11, 2010

Appeal From:

Jackson County Circuit Court
The Honorable Ann Mesle, Judge

Appellate Judges:

Division One: Karen King Mitchell, Presding Judge, Lisa White Hardwick and Cynthia L. Martin, Judges

Attorneys:

Paul K. Hentzen, Leawood, KS, for respondent.

Steven M. Aaron and Joshua M. Ellwanger, Kansas City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

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WESTERN DISTRICT**

**SHIRLEY WADE, Personal Representative
of the Estate of Clarissa E. Wade,**

RESPONDENT,

v.

CLARION MORTGAGE CAPITAL, INC.,

APPELLANT.

No. WD71128

Jackson County

Before Division One Judges: Karen King Mitchell, Presiding Judge, Lisa White Hardwick and
Cynthia L. Martin, Judges

Clarion Mortgage Capital, Inc. appeals from the trial court's judgment following a jury verdict which awarded Clarissa Wade damages on her fraudulent misrepresentation claim. Clarion contends that Clarissa failed to make a submissible case of fraud. Clarion maintains that Clarissa failed to present any evidence of representations directly to her concerning the use of loan proceeds to pay a contractor, or any evidence that such representations to Clarissa's daughter were then communicated to Clarissa. Clarion maintains that Clarissa thus failed to present any evidence that she relied on representations concerning constraints on the disbursement of loan proceeds before entering into the loan with Clarion.

AFFIRMED.

Division One holds:

Clarion's contention that no evidence was submitted to demonstrate that Clarissa either heard or relied on Clarion's loan officer's misrepresentation about payment to the contractor is without merit. There was uncontested evidence in the record to permit the jury to conclude that Clarissa both heard and relied on the misrepresentation made by Clarion's loan officers. The trial court did not error in submitting Clarissa's claim of fraudulent misrepresentation.

Opinion by: Cynthia L. Martin, Judge

May 11, 2010

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