

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

C-H BUILDING ASSOCIATES, LLC

Respondent

v.

JOE H. DUFFEY, ET AL.

Appellant

DOCKET NUMBER **WD71158**

DATE: May 18, 2010

Appeal From:

Circuit Court of Clay County, MO
The Honorable Anthony Rex Gabbert, Judge

Appellate Judges:

Division Four: Thomas H. Newton, C.J., James M. Smart, Jr., and Cynthia L. Martin, JJ.

Attorneys:

Michael P. Keleher, Gladstone, MO
Michael T. Feedback, Gladstone, MO

Counsel for Appellant
Co-Counsel for Appellant

Attorneys:

Thomas E. Hankins, Gladstone, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

C-H BUILDING ASSOCIATES, LLC, Respondent, v.
JOE H. DUFFEY, ET AL., Appellant

WD71158

Clay County

Before Division Four Judges: Thomas H. Newton, C.J., James M. Smart, Jr., and Cynthia L. Martin, JJ.

C-H Building Associates, LLC sued the Duffeys under three theories, including breach of contract. It alleged that the Duffeys breached the real estate sales contract because the Duffeys failed to produce a negotiated three-year lease with a commercial tenant. Subsequently, C-H filed a motion for summary judgment on its breach of contract claim. The trial court granted the motion for summary judgment. The Duffeys appeal.

REVERSED AND REMANDED.

Division Four holds:

C-H had the burden to establish a prima facie case entitling it to judgment as a matter of law on its breach of contract claim. It had to allege undisputed facts as to each element required to establish a breach of contract. C-H failed to satisfy its burden because in its motion it did not allege undisputed facts for two of the required elements: the defendants' obligation under the contract and their breach of that obligation. Consequently, the trial court erred in granting summary judgment on this claim. We reverse the summary judgment and remand the case for further proceedings.

Opinion by: Thomas H. Newton, Judge

May 18, 2010

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