

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**GROUND FREIGHT EXPEDITORS,
LLC**

**v.
JUDY C. BINDER AND GERARD F.
BINDER**

RESPONDENT,

APPELLANTS.

DOCKET NUMBER WD73678

DATE: December 27, 2011

Appeal From:

Clay County Circuit Court
The Honorable Larry D. Harman, Judge

Appellate Judges:

Division Two: Mark D. Pfeiffer, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

Attorneys:

Anthony S. Paris, Kansas City, MO, for respondent.

John D. Stasny, Bryan, TX, for appellants.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**GROUND FREIGHT EXPEDITORS,
LLC,**

RESPONDENT,

v.

**JUDY C. BINDER AND GERARD F.
BINDER,**

APPELLANTS.

No. WD73678

Clay County

Before Division Two: Mark D. Pfeiffer, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

Ground Freight Expeditors, LLC brought a suit on account against Judy and Gerald Binder (collectively "the Binders"). Despite being personally served, the Binders failed to appear, and the associate circuit judge entered a default judgment. Two years after entry of the default judgment, the Binders filed a motion to set aside the default judgment, which the associate circuit judge denied. Then, the Binders filed an application for a trial de novo pursuant to section 512.180.1 with the circuit court. The circuit judge dismissed the application for a trial de novo for lack of subject-matter jurisdiction. The Binders appeal from the circuit judge's judgment and argue two points of error: (1) that the associate circuit judge erred in denying their motion to set aside the default judgment because the default judgment was void for personal jurisdiction; and (2) that the circuit judge erred in dismissing their application for a trial de novo because there is no other method for review of the associate circuit judge's order.

AFFIRMED.

Division Two holds:

(1) The Binders appeal solely from the circuit judge's judgment dismissing their request for a trial de novo. Thus, the inquiry on appeal is limited to reviewing the circuit judge's dismissal of the application for a trial de novo. The associate circuit judge's denial of the motion to set aside the default judgment is not properly before the court and is not considered.

(2) Under section 512.180.1, a trial de novo is available in two types of cases: (1) those tried before an associate circuit judge sitting as a municipal judge; and (2) those tried before the associate circuit judge under the provisions of chapters 482, 534, and 535. The associate circuit judge's denial of the motion to set aside the default judgment does not fall within either category. According to section 512.180.2, the avenue of review for all other cases tried before an associate circuit judge is an appeal to the appropriate appellate court. The Binder's exclusive avenue for seeking review of the associate circuit judge's denial of the motion to set aside the default

judgment is direct appeal to this court from a final judgment entered by the associate circuit judge.

Opinion by Cynthia L. Martin, Judge

December 27, 2011

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