

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

PALISADES COLLECTION, LLC

**v.
SUSAN J. WATSON**

RESPONDENT,

APPELLANT.

DOCKET NUMBER WD74533

DATE: August 14, 2012

Appeal From:

Nodaway County Circuit Court
The Honorable Glen A. Dietrich, Judge

Appellate Judges:

Division Three: Victor C. Howard, Presiding Judge, Karen King Mitchell, Judge and Cynthia L. Martin, Judge

Attorneys:

Michael H. Berman and Rachel B. Ommerman, Overland Park, KS, for respondent.

Samuel L. Scroggie, Maryville, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

PALISADES COLLECTION, LLC,

RESPONDENT,

v.

SUSAN J. WATSON,

APPELLANT.

No. WD74533

Nodaway County

Before Division Three: Victor C. Howard, Presiding Judge, Karen King Mitchell, Judge and Cynthia L. Martin, Judge

Defendant Susan J. Watson appeals from the trial court's dismissal of her counterclaims against Palisades Collection, LLC ("Palisades") for failure to state a claim pursuant to Rule 55.27(a)(6). Finding no appealable order was entered, this appeal is dismissed.

Appeal Dismissed

(1) Generally, a dismissal without prejudice is not a final judgment from which an appeal may be taken. A dismissal without prejudice generally does not foreclose the party from bringing another civil action for the same cause.

(2) An exception to this general rule exists where a dismissal without prejudice operates to preclude a party from bringing another action for the same cause.

(3) Where defendant's counterclaims for abuse of process and for malicious prosecution were dismissed without prejudice for failure to state a claim, and where plaintiff thereafter voluntarily dismissed its lawsuit without prejudice, the trial court's dismissal of the counterclaims is not a final appealable judgment, as defendant's re-filing of the counterclaims upon termination of plaintiff's lawsuit in defendant's favor would not be futile and is not precluded by the dismissal.

(4) Termination may be effected by final judgment on the merits, dismissal of a cause of action by the court with prejudice, and by abandonment of the action, which may include a voluntary dismissal without prejudice.

Opinion by Cynthia L. Martin, Judge

August 14, 2012

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