

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

A.D.D., ET AL.,

Appellants

v.

PLE ENTERPRISES INC., D/B/A ROLLING HILLS AUTO PLAZA AND KDE  
ENTERPRISES INC., D/B/A ROLLING HILLS AUTO PLAZA.

Respondents

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DOCKET NUMBER WD75270

DATE: May 14, 2013

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Appeal From:

Circuit Court of Buchanan County, MO  
The Honorable Weldon Clare Judah, Judge

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Appellate Judges:

Division Four  
James Edward Welsh, C.J., Victor C. Howard, J., and Peggy Stevens McGraw, Sp. J.

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

**A.D.D., ET AL., Appellants, v. PLE ENTERPRISES INC., D/B/A  
ROLLING HILLS AUTO PLAZA AND KDE ENTERPRISES INC.,  
D/B/A ROLLING HILLS AUTO PLAZA, Respondents**

**WD75270**

**Buchanan County**

Before Division Four Judges: Welsh, C.J., Howard, J., and McGraw, Sp. J.

Lartarsh Woodrich and her son, A.D.D., appeal the circuit court's setting aside a default judgment that had been entered in their personal injury action against PLE Enterprises, Inc. and KDE Enterprises, Inc. d/b/a Rolling Hills Auto Plaza (hereinafter collectively referred to as Rolling Hills). Woodrich and A.D.D. contend that the circuit court erred in setting aside the default judgment as void because the circuit court had acted consistently with due process when it granted the default judgment and because Missouri Law authorized the circuit court to award damages jointly and severally against all defendants.

**Reversed and remanded**

**Division Four holds:**

(1) The circuit court did not lack personal jurisdiction or subject matter jurisdiction and did not act in a manner inconsistent with due process of law when it entered the default judgment. Rolling Hills was given notice that it was being sued for general negligence and negligent entrustment and was given an opportunity to be heard. Despite receiving notice of the claims filed against it, Rolling Hills did not appear and, therefore, waived its rights as a result of its failure to appear. The circuit court entered a default judgment against Rolling Hills on Woodrich's and A.D.D.'s claims for negligence and negligent entrustment and not on any unpled claims. Even if Woodrich's and A.D.D.'s petition was deficient in pleading a cause of action for negligence and negligent entrustment, Rolling Hills's constitutional rights of due process were not violated. The default judgment entered by the circuit court, therefore, was not void under Rule 74.06(b)(4).

(2) A judgment is not void merely because it is erroneous." That the circuit court may have erred in imposing joint and several liability against all the defendants (an issue we need not decide) does not render the default judgment void. Rolling Hills waived its right to contest the joint and several liability allocation by failing to answer or otherwise defend. The circuit court did not take any action inconsistent with due process of law. The default judgment entered by the circuit court, therefore, was not void under Rule 74.06(b)(4).

Opinion by James Edward Welsh, Chief Judge

May 14, 2013

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**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**