

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

MARIA STANDER,

Appellant,

v.

LINDA SZABADOS,

Respondent.

DOCKET NUMBER WD75697

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: June 11, 2013

APPEAL FROM

The Circuit Court of Cole County, Missouri
The Honorable Jon E. Beetem, Judge

JUDGES

Division I: Witt, P.J., and Newton and Pfeiffer, JJ.

CONCURRING.

ATTORNEYS

Gaylin Rich Carver
Jefferson City, MO

Attorney for Appellant,

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Jefferson City, MO

Attorney for Respondent.



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

MARIA STANDER,)
)
) **Appellant,**)
v.) **OPINION FILED:**
) **June 11, 2013**
LINDA SZABADOS,)
)
) **Respondent.**)

WD75697

Cole County

Before Division I Judges: Gary D. Witt, Presiding Judge, and Thomas H. Newton and Mark D. Pfeiffer, Judges

Maria Stander appeals from the judgment of the Circuit Court of Cole County, Missouri, in favor of Linda Szabados, on her counterclaim to quiet title to certain improved real property to Stander and Szabados as tenants in common.

AFFIRMED.

Division I holds:

1. Szabados had standing to bring a quiet title action because she alleged sufficient facts in her counterclaim which, if proven, were sufficient to establish that she possessed equitable title as a tenant in common of the property.
2. Szabados's quiet title claim was not barred by the Statute of Frauds because Szabados's full performance according to the terms of the parties' oral agreement removed the agreement from the Statute of Frauds.
3. Stander waived the defense of failure to state a claim because she did not raise the defense in any pleading permitted under Rule 55.01 or by a motion for judgment on the pleadings.
4. Szabados's fraud claim was supported by substantial evidence.

5. Szabados established her equitable title to an undivided one-half interest as a tenant in common with Stander in the property because Szabados fully performed the parties' oral agreement regarding her joint ownership of the property with Stander, the legal owner.

Opinion by: Mark D. Pfeiffer, Judge

June 11, 2013

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