

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

BMO HARRIS BANK

**v.
HAWES TRUST INVESTMENTS, LLC**

RESPONDENT,

APPELLANT.

DOCKET NUMBER WD78539

DATE: June 7, 2016

Appeal From:

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

Appellate Judges:

Division One: Lisa White Hardwick, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

Attorneys:

William H. Meyer, Kansas City, MO, for respondent.

James A. Kessinger, Kansas City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

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WESTERN DISTRICT**

BMO HARRIS BANK,

RESPONDENT,

v.

HAWES TRUST INVESTMENTS, LLC,

APPELLANT.

No. WD78539

Clay County

Before Division One: Lisa White Hardwick, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

Hawes Trust Investments, LLC appeals the trial court's judgment denying its motion to intervene in proceedings registering and seeking to execute on a foreign judgment entered in Kansas in favor of BMO Harris Bank, N.A. against William Dunn, III and Edwin H. Hawes, III, which foreign judgment reduced to judgment a claim to enforce payment of a promissory note. Hawes Trust Investments, LLC now claims an ownership interest in the promissory note.

AFFIRMED

Division One holds:

1. The Judgment denied Hawes Trust's motion to intervene as a matter of right. An order denying a motion to intervene as a matter of right is appealable. The Judgment also denied Hawes Trust the right to permissively intervene. There is no right to appeal the denial of a motion to permissively intervene.

2. Hawes Trust's motion to intervene reflects a fundamental misunderstanding of the absolute right of the holder of a negotiable instrument to enforce payment of a promissory note even if a third party claims a beneficial interest in the note. Because Hawes Trust's beneficial interest, if any, in the note which gave rise to the Kansas judgment is contested and remains to be determined, and because that interest (if it exists) can be enforced in an action by Hawes Trust against Bank to recover any amounts Bank collected on note, Hawes Trust has no right to intervene as a matter of right in Bank's action in Missouri to register and enforce collection of the Kansas judgment.

Opinion by Cynthia L. Martin, Judge

June 7, 2016

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