

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

MARY M. HARMS,

Respondent

v.

GREGORY R. HARMS.

Appellant

DOCKET NUMBER WD78643

DATE: MAY 24, 2016

Appeal From:

Circuit Court of Benton County, MO
The Honorable Michael O'Brien Hendrickson, Judge

Appellate Judges:

Division Three
Gary D. Witt, P.J., James E. Welsh, Anthony Rex Gabbert, JJ.

Attorneys:

James Owen Kjar, Warsaw, MO,

Counsel for Respondent

Attorneys:

Michael Edgett, Clinton, MO

Counsel for Appellant

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

MARY M. HARMS,

Respondent,

v.

GREGORY R. HARMS,

Appellant.

WD78643

Benton County

Before Division Three Judges: Gary D. Witt, P.J., James E. Welsh, Anthony Rex Gabbert, JJ.

Gregory R. Harms appeals the circuit court's judgment in favor of Mary M. Harms on her petition to recover debts owed to her by Gregory. Gregory asserts that the circuit court erred when: (1) it rejected his statute of limitations defense regarding the \$45,000 promissory note because Section 516.110, RSMo 2000, requires a civil action to be commenced within ten years upon any writing and the cause of action accrued upon Gregory's default on the promissory note on or about June 21, 2002; (2) it rejected his statute of limitations defense regarding his promise to pay \$15,000 in Count II of Mary's petition because Section 516.120, RSMo 2000, requires a civil action to be commenced within five years on any contract and the cause of action here accrued on or before November 30, 2001, and suit was not instituted within five years of that date, and; (3) it found that the debt owed to Mary had been reaffirmed in 2011, 2012, and 2013, because Section 516.320, RSMo 2000, requires that no acknowledgment or promise can take a contract out of the operation of the provisions of sections 516.100 to 516.370 unless the same is in a writing subscribed to by a party chargeable thereby, and no writing was subscribed to by Gregory to extend the statute of limitations on the debts.

AFFIRMED

Division Three holds:

- (1) The circuit court did not err in rejecting Gregory's statute of limitations defense regarding the \$45,000 promissory note as the statute of limitations began running on January 1, 2012, the maturity date of the installment note, and Mary filed her claim within ten years after that date.
- (2) The circuit court did not err in rejecting Gregory's statute of limitations defense regarding his promise to pay \$15,000 in Count II of Mary's petition because Mary's claim was filed prior to the expiration of the statute of limitations set forth in Section 516.120.

(3) As we are affirming on other, dispositive grounds, we need not determine whether the debt owed to Mary was reaffirmed in 2011, 2012, and 2013.

Opinion by Anthony Rex Gabbert, Judge

Date: 5/24/16

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