

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**BARTON J. COHEN, AS TRUSTEE  
OF THE BARTON J. COHEN TRUST  
DATED DECEMBER 12, 1990, AND  
AS TRUSTEE OF THE CASS FAMILY 2004  
IRREVOCABLE TRUST DATED  
DECEMBER 23, 2004, GENERAL PARTNERS  
OF DESERT ASSOCIATES, A TEXAS  
GENERAL PARTNERSHIP**

**RESPONDENT,**

**v.**

**NORMAND PROPERTY ASSOCIATES, L.P.,**

**RESPONDENT,**

**AND**

**RICHARD L. BROWN**

**APPELLANT.**

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DOCKET NUMBER WD78804

DATE: May 31, 2016

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Appeal From:  
Platte County Circuit Court  
The Honorable James W. Van Amburg, Judge

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

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Attorneys:  
Greer S. Lang, Kansas City, MO, for respondent Barton J. Cohen.  
Michael T. George, St. Louis, MO, for appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

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**COMPLETE TITLE OF CASE:  
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**AND**

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**RESPONDENT,**

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**APPELLANT.**

No. WD78804

Platte County

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

Richard L. Brown appeals following the trial court's entry of judgment confirming a partition sale of property owned by Desert Associates and Normand Property Associates, L.P. as tenants in common. Brown argues that the trial court exceeded its jurisdiction in entering the judgment. Brown's also argues that the trial court committed error in an earlier order authorizing partition of the property by finding that he was not a real party in interest, and by ordering partition of the property by sale rather than in kind.

**AFFIRM.**

**Division One holds:** A real party in interest in a partition action is a person who is vested, and any person in being who might or will become vested, with an estate in the property to be partitioned. Brown argued before the trial court that he was a real party in interest because he was a limited partner in Normand, one of the owners of the property. A limited partnership interest is personal property that does not constitute an interest in real property owned by the partnership. On appeal, Brown raised the new argument that he held equitable title to the property as a member in an ongoing joint venture to develop the property. However, Brown did not preserve this theory as it was not raised in the trial court. And in any event, Brown presented no evidence at trial to support this theory. Moreover, Brown is bound by the judicial admission

in his answer that the property was owned by Desert Associates and Normand Property Associates, L.P. as tenants in common.

The trial court properly determined that Brown is not a real party in interest in the partition action. The resolution of this issue negates the need to address Brown's additional claims of error on appeal, which are denied as moot.

Opinion by Cynthia L. Martin, Judge

May 31, 2016

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