

WEST'S JURY VERDICTS - MISSOURI REPORTS

Title Insurer Owes Property Owner \$100K for Overlooked Cemetery Plot

Circuit Court of Missouri, Sixteenth Judicial Circuit, Jackson County.

**Bauer v. Stewart Title Guar. Co.**

**Type of Case:**

**Insurance** • Unfair Claims Practice  
Contracts • Breach  
Contracts • Indemnity

**Specific Liability:** Title **insurance** company failed to pay insured sufficiently for claim that the property he bought was partially encumbered by an existing title

**General Injury:** Monetary damages

**Jurisdiction:**

State: Missouri  
County: Jackson

**Related Court Documents:**

Plaintiff's first amended petition: [2007 WL 4622575](#)  
Defendant's answer: [2007 WL 4622574](#)  
Plaintiff's trial brief: [2007 WL 4622567](#)  
Defendant's trial brief: [2007 WL 4622568](#)  
Jury instructions: [2007 WL 4622562](#)  
Judgment: [2007 WL 4639068](#)

**Case Name:** Mike Bauer v. Stewart Title Guaranty Co.

**Docket/File Number:** 616-CV-12973

**Verdict:** Plaintiff, \$100,000.00

**Verdict Range:** \$100,000 - 199,999

**Verdict Date:** Dec. 5, 2007

**Judge:** [John M. Torrence](#)

**Attorneys:**

Plaintiff: Jennifer K. Vath and Brian L. Smith, the Smith Law Group, Shawnee, Kan.

Defendant: [Jeffrey A. Befort](#), Stinson Morrison Hecker LLP, Kansas City, Mo.; [Mark D. Hinderks](#), Stinson Morrison Hecker LLP, Overland Park, Kan.

**Trial Type:** Jury

**Experts:**

Plaintiff: Kent Krause, property appraiser, Nunnink & Associates, Westwood, Kan.

Defendant: Laird Goldsborough, property appraiser, Shaner Appraisals, Overland Park, Kan.

**Breakdown of Award:**

\$100,000.00 to plaintiff for diminution of the value of the property

**Summary of Facts:**

Mike Bauer bought a 96.1-acre parcel of vacant land in Kansas City, Mo., for \$400,000. He purchased title **insurance** from Stewart Title Guaranty Co. when he closed on the sale Nov. 21, 2002.

After the purchase, Bauer discovered that part of the property was encumbered by a title to a family cemetery plot.

Bauer believed the existing title interfered with the value of the property he purchased by \$388,000. According a trial brief, he wanted to have the graves disinterred and relocated. Otherwise, he believed that he would be required to provide an easement for a road granting access to the cemetery.

He submitted a claim to Stewart Title, but he said the insurer only offered \$10,000 nine months after he made his claim.

Bauer sued Stewart Title in the Jackson County Circuit Court, alleging the insurer breached its contract by failing to pay for the full diminution of his property value. In addition, he claimed, the defendant vexatiously refused to pay his claim.

He sought damages equal to the \$388,000 to which he claimed he was entitled for the lost value of his property, as well as attorney and appraisal fees. The vexatious refusal to pay claim also warranted specific attorney fees in accordance with Missouri statute, he added.

Stewart Title admitted in its answer that Bauer had a claim, but disputed his calculation of damages and denied any breach of contract. The vexatious refusal to pay claim failed, because a genuine dispute over the amount of damages existed, the defendant contended.

The insurer argued, by way of affirmative defense, that the amount Bauer sought exceeded the limits of his policy, that the policy and applicable law did not afford him attorney or appraiser fees, and that Stewart Title responded reasonably to his claim.

After deliberating on the evidence a jury returned a verdict in favor of Bauer Dec. 5, 2007, awarding him \$100,000 in total damages. The jurors decided he was not entitled to penalties or attorney fees, however.

Court: Circuit Court of Missouri, Sixteenth Judicial Circuit, Jackson County.

2007 WL 4934740 (Mo.Cir.)

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