

**ARKANSAS COURT OF APPEALS**

DIVISION IV

No. CA09-1001

CARL CRENSHAW

APPELLANT

V.

ARKANSAS WAREHOUSE, INC.

APPELLEE

**Opinion Delivered** April 7, 2010

APPEAL FROM THE CRAWFORD  
COUNTY CIRCUIT COURT  
[NO. CV-2004-314(II)]

HONORABLE MICHAEL MEDLOCK,  
JUDGE

REBRIEFING ORDERED

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**JOHN MAUZY PITTMAN, Judge**

This is an appeal from a grant of summary judgment in a personal-injury case in favor of one of the defendants. We cannot reach the merits of the appeal because the addendum is deficient in that it does not contain all items essential to an understanding of this court's jurisdiction over the appeal. Therefore, we order rebriefing.

Appellant Carl Crenshaw sued appellee Arkansas Warehouse, Inc., for personal injuries that he suffered when he fell through a skylight in the roof of a building owned by Arkansas Warehouse. Appellant later amended his complaint to assert claims against Everett Hogan Construction Co.; Sigma Manufacturing Co.; Therma-Tru Corporation; LST Corporation; S&H, Inc.; Lake Shore Industries, Inc.; and Therma-Tru Holdings, Inc. These other defendants were alleged either to have been involved in the construction of the building or to have owned the building prior to Arkansas Warehouse.

The briefs in this case were filed before January 1, 2010, the effective date of *In re Arkansas Supreme Court and Court of Appeals Rules 4-1, 4-2, 4-3, 4-4, 4-7, and 6-9*, 2009 Ark. 544 (per curiam). Therefore, this appeal is guided by the former rules. Rule 4-2(a)(8) of the Arkansas Rules of the Supreme Court and Court of Appeals provided in pertinent part:

Following the signature and certificate of service, the appellant's brief shall contain an Addendum which shall include true and legible photocopies of the order, judgment, decree, ruling, letter opinion, or Workers' Compensation Commission opinion from which the appeal is taken, along with any other relevant pleadings, documents, or exhibits essential to an understanding of the case *and the Court's jurisdiction on appeal*.

(Emphasis added.) If the appellate court determines that the abstract or addendum is deficient, the court will afford the appellant an opportunity to cure the deficiencies by filing a substituted brief that conforms with the requirements of Rule 4-2. Ark. Sup. Ct. R. 4-2(b)(3).

Here, we cannot tell from the abstract and addendum whether we have jurisdiction over this appeal because appellant has failed to include in his addendum any documents showing that the claims against the other defendants were resolved. *See* Ark. R. Civ. P. 54(b). Several of the defendants asserted cross-claims and counterclaims against each other. The documents pertaining to these claims and their disposition are likewise not included in the addendum. *See id.* While the items in question are in the record, our supreme court has announced a preference for rebriefing when an addendum is missing key documents. *See Gentry v. Robinson*, 2009 Ark. 345, 322 S.W.3d 498 (per curiam); *Dachs v. Hendrix*, 2009

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Ark. 322, 320 S.W.3d 645 (per curiam); *Bryan v. City of Cotter*, 2009 Ark. 172, 303 S.W.3d 64 (per curiam).

Pursuant to Rule 4-2(b)(3), we direct appellant to file a substituted brief that complies with our rules. The substituted brief, abstract, and addendum shall be submitted within fifteen days from the date of entry of this order. We encourage appellate counsel, prior to filing the substituted brief, to review the rules regarding the contents of the abstract and addendum to assure that the substituted brief complies with the rules and to ensure that no additional deficiencies are present. After filing of the substituted abstract, brief, and addendum, appellee shall have an opportunity to revise or supplement its brief within fifteen days. If appellant fails to file a compliant brief within the prescribed time, the judgment appealed from may be affirmed for noncompliance with our rules.

Rebriefing ordered.

VAUGHT, C.J., and BROWN, J., agree.