

**ARKANSAS COURT OF APPEALS**

**PROCEEDINGS OF DECEMBER 8, 2010**

LARRY D. VAUGHT, CHIEF JUDGE:

CACR09-1398. *Ciro Jimenez v. State of Arkansas*, from Benton Circuit. Reversed and remanded. Glover, Abramson, Henry, Baker and Brown, JJ., agree.

CACR10-460. *Kenric Partee v. State of Arkansas*, from Mississippi Circuit, Chickasawba District. Affirmed. Glover and Baker, JJ., agree.

CACR10-577. *Lesa Diane Menne v. State of Arkansas*, from Lawrence Circuit. Reversed and remanded. Robbins, Kinard, and Abramson, JJ., agree. Gladwin and Henry, JJ., dissent.

CA10-416. *Kristie Mendez, in her capacity as Administratrix of the Estate of Cheryl K. Morse, deceased v. David B. Glover, M.D.; Rebecca R. Floyd, M.D.; Hriar P. Simonian, M.D.; Sparks Regional Medical Center; and John Does 1-10*, from Sebastian Circuit, Fort Smith District. Affirmed. Gladwin and Henry, JJ., agree.

CA10-462. *Kim Gladden v. Georgia Pacific Corporation and Sedgwick Claims Services*, from the Arkansas Workers' Compensation Commission. Reversed and remanded. Robbins, Kinard, and Abramson, JJ., agree. Gladwin and Henry, JJ., dissent.

JOHN MAUZY PITTMAN, JUDGE:

CACR10-185. *Clayton Elliott v. State of Arkansas*, from Nevada Circuit. Affirmed. Vaught, C.J., agrees. Hart, J., concurs.

CACR10-206. *Timothy Clemmons v. State of Arkansas*, from Pulaski Circuit, Fifth Division. Affirmed. Gladwin and Kinard, JJ., agree.

CACR10-310. *Jamie Fowler v. State of Arkansas*, from Yell Circuit, Southern District. Rebriefing ordered. Gruber, J., agrees. Glover, J., concurs.

JOSEPHINE LINKER HART, JUDGE:

CA10-62. *Linda Gray, Administratrix of the Estate of Robert Earl Gray, deceased v. Johnson Employment Services, LLC; Travelers Insurance Company; M & A Wrecker Service, Inc.*, from the Arkansas Workers' Compensation Commission. Affirmed. Baker and Brown, JJ., agree.

ROBERT J. GLADWIN, JUDGE:

CACR10-526. *Anthony Bell v. State of Arkansas*, from Pulaski Circuit, Seventh Division. Affirmed. Vaught, C.J., and Henry, J., agree.

CA10-126. *Sandra Forde Beckworth v. Diamante, A Private Membership Golf Club, LLC, and Cooper Land Development, Inc.*, from Saline Circuit. Affirmed on direct appeal; affirmed on cross-appeal. Vaught, C.J., and Henry, J., agree.

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JOHN B. ROBBINS, JUDGE:

CA10-367. Chase Home Finance, LLC v. Wilmington O. Charles, Jr., Lloyd A. & Marsha G. Freedman Living Trust, Arkansas Department of Finance & Administration, Gary Moran, and Arkansas Federal Credit Union, from Pulaski Circuit, Sixth Division. Affirmed in part; reversed in part. Kinard and Abramson, JJ., agree.

CA10-732. Richardson Waste, Inc. and Guarantee Insurance Company v. Christopher Corcoran, from the Arkansas Workers' Compensation Commission. Affirmed. Kinard and Abramson, JJ., agree.

RITA W. GRUBER, JUDGE:

CACR10-500. Edward Charles Snyder v. State of Arkansas, from Washington Circuit. Rebriefing ordered. Pittman, J., agrees. Glover, J., concurs.

CA10-621. Second Injury Fund v. Troy Durham, MC Express, Inc., Retention Management Services, and Death & Permanent Total Disability Trust Fund, from the Arkansas Workers' Compensation Commission. Reversed and remanded. Pittman and Glover, JJ., agree.

CA10-687. Jamie R. Mahone v. Arkansas Department of Human Services and minor children, from Washington Circuit. Affirmed. Pittman and Glover, JJ., agree.

DAVID M. GLOVER, JUDGE:

CACR10-738. Jeremy Gipson v. State of Arkansas, from Jefferson Circuit. Affirmed. Pittman and Gruber, JJ., agree.

CA10-419. William J. Barnes v. Deborah L. Barnes, from Pulaski Circuit, Fourteenth Division. Affirmed on direct appeal and cross-appeal. Pittman and Gruber, JJ., agree.

RAYMOND R. ABRAMSON, JUDGE:

CACR10-734. Adrian Maxwell v. State of Arkansas, from Faulkner Circuit. Affirmed. Robbins and Kinard, JJ., agree.

CA10-478. Norman E. Bundy, Jr. v. Pat Moody, from Jackson Circuit. Remanded to settle the record; supplementation of the addendum ordered. Robbins and Kinard, JJ., agree.

WAYMOND M. BROWN, JUDGE:

CA10-270. Kevin and Tammy Horton, husband and wife v. Brent and Robin Taylor, husband and wife, and Duford Taylor, from Searcy Circuit. Dismissed. Robbins and Gruber, JJ., agree.

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WAYMOND M. BROWN, JUDGE: (CONTINUED)

CA10-371. *Advocat, Inc., Diversicare Management Services Co., and Diversicare Leasing Corp. d/b/a Arbor Oaks Health & Rehabilitation Center v. Dana Couch Heide, as power of attorney of Marc Stephen Williams, an incapacitated person, from Hot Spring Circuit.* Reversed and remanded. Hart and Baker, JJ., agree.

CA10-647. *Aegon Insurance USA and St. Paul Fire & Marine Insurance Company v. DeAnn E. Durham-Gilpatrick, from the Arkansas Workers' Compensation Commission.* Affirmed. Hart and Baker, JJ., agree.

CA10-805. *Casandra McCann v. Arkansas Department of Human Services, from Johnson Circuit.* Affirmed. Hart and Baker, JJ., agree.

CA10-822. *Second Injury Fund v. Billy R. Tharp, Justice Farms, Inc., Commerce & Industry Ins. Co., and Death & Permanent Total Disability Trust Fund, from the Arkansas Workers' Compensation Commission.* Reversed and remanded on direct appeal; affirmed on cross-appeal. Robbins and Gruber, JJ., agree.

PER CURIAM DECISIONS

The following cases appealed from the Arkansas Board of Review are affirmed without written opinion pursuant to Supreme Court Rule 5-2(b).

- E10-78. Joyce McKay v. Director et al.
- E10-79. Deborah A. Courtney v. Director et al.
- E10-81. Leon L. Lollis v. Director et al.
- E10-82. Rahim Basir v. Director et al.
- E10-83. Katrina L. Allen v. Director et al.
- E10-84. Leon Mitchell v. Director et al.
- E10-85. Bobbie J. Powell v. Director et al.
- E10-87. Flippin Pharmacy & Gifts v. Director et al.
- E10-88. Robert A. Gutierrez v. Director et al.

**ARKANSAS COURT OF APPEALS**  
**PROCEEDINGS OF DECEMBER 8, 2010**  
**PER CURIAM ORDERS**

REHEARING DENIED: Petition for Rehearing was denied today in the following case.

CA09-1217. David G. Vigneault v. Pamela J. Vigneault, from Benton Circuit. Hart, J., would grant.

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CACR09-1389. Craig Deon Thomas v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of Gregg A. Knutson for attorney's fees is granted. Allowed \$1,400.00.

CACR10-271. Shawn M. Sims-Navarre v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of David L. Dunagin for attorney's fees is granted. Allowed \$1,400.00.

CACR10-291. Michael Cook v. State of Arkansas, from Lonoke Circuit. Motion of Robert M. "Robby" Golden for attorney's fees is granted. Allowed \$1,400.00.

CACR10-359. Joe K. Moore v. State of Arkansas, from Miller Circuit. Motion of Jason Horton for attorney's fees is granted. Allowed \$1,400.00.

CACR10-385. Tracie Lynn Snider v. State of Arkansas, from Jackson Circuit. Motion of R.T. Starken for attorney's fees is granted. Allowed \$1,400.00.

CACR10-501. David Juarez v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of David L. Dunagin for attorney's fees is granted. Allowed \$1,400.00.

CACR10-532. Cory Ray Lynch v. State of Arkansas, from Perry Circuit. Motion of R. David Lewis to be relieved as counsel or in the alternative for additional brief time. Motion to be relieved is denied. Appellant's brief due within forty-five days.

CACR10-1000. Lonnie Lynn Miller v. State of Arkansas, from Union Circuit. Motion of N. Mark Klappenbach to be relieved as counsel for appellant is denied. Appellant's brief due within thirty days.

CACR10-1065. Charles Alvin Boatright v. State of Arkansas, from Madison Circuit. Appellant's motion to exclude certain items from the addendum is denied.

CACR10-1145. Joe McKinley Jones v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of James Filyaw to withdraw as counsel. Ruling is reserved. *See per curiam* this date.

CA08-1190. Gary Howard, Individually and as Administrator of the Estate of Odis Howard v. Lauren Adams, Don Brady, Todd Mazzanti, and Adams & Brady & Jackson, P.L.L.C., from Benton Circuit. Appellant's motion for substitution of exhibits is granted.

CA09-1374. Darla Jackson v. Tanya Gonzales et al., from Carroll Circuit, Western District. Appellant's motion for taxation of costs is moot. Costs to be assessed on mandate.

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**PROCEEDINGS OF DECEMBER 8, 2010**

**PER CURIAM ORDERS**

CA10-210. Bryan Miller v. Michael A. Neil, from Washington Circuit. Appellant's motion for costs is moot. Costs to be assessed on mandate.

CA10-302. Steve's Outdoor Investments, LLC et al. v. Reynolds Forestry Consulting-RFC, Inc., from Columbia Circuit. Appellants' motion to file bond is denied without prejudice.

CA10-430. Anthony E. Owens v. Office of Child Support Enforcement, from Sebastian Circuit, Fort Smith District. Appellant's pro se motion for stay is denied.

CA10-452. John O'Hara v. Death and Permanent Disability Trust Fund, from Workers' Compensation Commission. Appellant's motion for attorney's fees is granted.

CA10-474. Mady J. Maguire v. W. Gene Jines, D.D.S. et al., from Pulaski Circuit, Fifth Division. Appellant's pro se motion to supplement the record and to stay brief time is denied.

CA10-874. Daniel Ray Horton v. Virginia Ruth Horton, from Pulaski Circuit, Ninth Division. Motion of Debra Reece to be substituted as counsel for appellant and for brief time is granted. Appellant's brief due within thirty days.

CA10-899. Gregory Cavin Williams v. Diana Joy Enneking, from Benton Circuit. Joint motion to dismiss appeal and remand to the trial court for modification of child support order pursuant to agreement of the parties is granted.

CA10-976. Obie Wright v. Dalton Pontiac Buick GMC Truck, Inc., et al., from Workers' Compensation Commission. Appellees' motion to dismiss appeal is granted.

CA10-979. Dellia Smith et al. v. Beverly Sims and Drew Sims, from Desha Circuit. Appellants' motion to file belated brief is granted. Appellants' brief filed this date.

CA10-1016. John Louis McClure v. Tracy Kara Schollmier-McClure, from Pulaski Circuit, Sixteenth Division. Appellant's motion to dismiss is granted. Cross-appellant's brief due within thirty days. Cross-appellee's brief due within thirty days thereafter.

CA10-1057. Mercy Health System of Northwest Arkansas, Inc. v. Ajdahan D. Bicak, M.D., from Benton Circuit. Appellant's motion to correct the record is granted. Supplemental record filed this date. Appellant's brief due within thirty days. Appellee's brief due within thirty days thereafter.

CA10-1075. Katherine Keckler v. Arkansas Department of Human Services, from Cleveland Circuit. Motion of Eduardo Krieke to intervene, to stay briefing schedule, and to be made party as appellee is granted. Appellees' briefs due within thirty days.

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**PROCEEDINGS OF DECEMBER 8, 2010**

**MOTIONS SUBMITTED**

CA09-1298. N.J. v. State of Arkansas, from Faulkner Circuit. Motion of Justin Eisele for attorney's fees.

CA10-190. David Dunahoo v. Piles Concrete and CNA Insurance, from Workers' Compensation Commission. Joint motion for stay of appellate proceedings to participate in the Arkansas Voluntary Appellate Mediation Pilot Program.

CA10-592. Manufacturers & Traders Trust Company et al. v. Tracy M. Nickleson and Carolyn Nickleson, from Faulkner Circuit. Appellees' motion to remand to settle and supplement the record and for stay of brief time.

CA10-750. Arkansas Research Medical Testing et al. v. William Jennings B. Osborne and Marie E. Osborne, from Pulaski Circuit, First Division. Appellees/Cross Appellants' motion to dismiss cross appeal.

CA10-801. Billy Fewell v. Arkansas Department of Human Services, from Pulaski Circuit, Third Division. Appellee's motion to dismiss appellant's appeal.

CA10-1078. Donald Eastman v. Canal Insurance Company, from Ouachita Circuit. Appellant's motion to proceed without transcript of July 12, 2010, hearing or, in the alternative, for order to compel the court reporter to transcribe necessary portions of the hearing.

E10-23. Guy D. Czajka v. Director et al., from Board of Review. Appellant's pro se motion to compel the court for the motion to supplement the record with application of documents for the extended benefit and for extension of time to file brief.

**The following case is called for dismissal for failure to file brief in accordance with the Court's opinion dated March 31, 2010, in which rebriefing was ordered.**

CA09-469. Linda Jo Robinson v. Walter Whit Barton and Ball, Barton & Hoffman Firm, from Drew Circuit.

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**SUBMISSIONS**

CA10-399. Tina Le et al. v. Hoang Thi Nguyen, from Pulaski Circuit, Thirteenth Division. Argued orally.

CACR10-365. Brian Charland v. State of Arkansas, from Carroll Circuit, Eastern District.

CACR10-480. Raymond Yesl Bell v. State of Arkansas, from Sebastian Circuit, Fort Smith District.

CACR10-521. Wendell Terrell Christian v. State of Arkansas, from Sebastian Circuit, Fort Smith District.

CACR10-525. April Marie Anderson v. State of Arkansas, from Pope Circuit.

CACR10-617. Waylon B. VanOven v. State of Arkansas, from Woodruff Circuit.

CACR10-653. Bryant D. Morris v. State of Arkansas, from Pulaski Circuit, Second Division.

CACR10-710. Matthew Clayton Jacobs v. State of Arkansas, from Garland Circuit.

CACR10-824. Chasity Rogers v. State of Arkansas, from Saline Circuit.

CA10-37. Derrick Davidson v. Whitley Dunn, from Benton Circuit.

CA10-565. Courtney Mitchell et al. v. John Ramsey et al., from Crittenden Circuit.

CA10-582. Anthony Verbitski v. Union Pacific Railroad Company, from Pulaski Circuit, Sixteenth Division.

CA10-604. Sean McDougal v. Lisa McDougal, from Sebastian Circuit, Fort Smith District.

CA10-610. Centennial Bank et al. v. Tribuilt Construction Group, LLC, from Sebastian Circuit, Fort Smith District.

CA10-659. Len E. Blaylock, Jr. v. Nancy L. Blaylock, from Perry Circuit.

CA10-660. Office of Child Support Enforcement v. Franklin Perry, from Lincoln Circuit.

CA10-717. John Crites v. Bob Cowan and United Parcel Service, from Pulaski Circuit, Thirteenth Division.

CA10-765. St. Mary-Rogers Memorial Hospital et al. v. Karen Henderson, from Workers' Compensation Commission.

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**SUBMISSIONS**

**The following cases are appeals from the Arkansas Board of Review.**

E10-89. Teresa N. Blair v. Director et al.

E10-90. Samantha R. Watts v. Director et al.

E10-91. Mandy M. Rice v. Director et al.

E10-92. Bryan E. Logan v. Director et al.

E10-93. Jack R. Faulk v. Director et al.

E10-94. Brian G. Shannon v. Director et al.

E10-95. Catricia E. Marks v. Director et al.

E10-96. Michelle R. Cleveland v. Director et al.

E10-99. Michael Byers v. Director, et al.