

ARKANSAS COURT OF APPEALS

PROCEEDINGS OF NOVEMBER 30, 2011

JOHN MAUZY PITTMAN, JUDGE:

[CACR11-327](#). Brian K. Johnson v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Affirmed. Vaught, C.J., and Gruber, J., agree.

[CA10-302](#). Steve's Outdoor Investments, LLC v. Reynolds Forestry Consulting-RFC, Inc., from Columbia Circuit. Reversed and remanded. Vaught, C.J., and Gruber, J., agree.

JOSEPHINE LINKER HART, JUDGE:

[CA11-276](#). Jeffery and Rebecca Jenkins v. Dale E. & Betty Fogerty Joint Revocable Trust; Dale E. Fogerty, as Trustee and Individually; and Betty Fogerty, as Trustee and Individually, from Garland Circuit. Affirmed in part; reversed and remanded in part on direct appeal; affirmed on cross-appeal. Vaught, C.J., and Wynne, and Glover, JJ., agree. Gruber and Brown, JJ., dissent in part.

[CA11-282](#). Janine Murphree et al. v. Giraffe Tree Service, Inc., from Pulaski Circuit, Ninth Division. Appeal dismissed. Glover and Martin, JJ., agree.

ROBERT J. GLADWIN, JUDGE:

[CA11-257](#). Kenneth Smith, Jr., and Geraldean Smith, as Co-Special Administrators of the Estate of Mark Anthony Smith v. Rebsamen Medical Center, Inc., et al., Richard Young, M.D., and James Landry, M.D., from Pulaski Circuit, Sixth Division. Reversed and remanded. Robbins and Hoofman, JJ., agree.

[CA11-381](#). Gerald Durham v. White Hall Public Schools and Public Employee Claims Division, from the Arkansas Workers' Compensation Commission. Affirmed. Robbins and Hoofman, JJ., agree.

JOHN B. ROBBINS, JUDGE:

[CACR10-608](#). Michael Gregory v. State of Arkansas, from Crittenden Circuit. Affirmed; motion granted. Gladwin and Hoofman, JJ., agree.

[CA11-477](#). Brian Lowrance and Anna Lowrance v. Janet Smith, from Saline Circuit. Affirmed. Gladwin and Hoofman, JJ., agree.

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ROBIN F. WYNNE, JUDGE:

[CACR11-341](#). Daniel Lewis v. State of Arkansas, from Pulaski Circuit, Fourth Division. Rebriefing ordered. Abramson and Brown, JJ., agree.

[CA11-394](#). Ben Stephens, Benny Greenway, Cindy Jarrell, Lenora Williams, Tommy Welch, Tammy Tatro, Jimmy Jones, Elders of Western Cherokee Nation of Arkansas and Missouri; and June Wiles, Harold Aldridge, Nancy Mouser, Denzil Powell, Gary Golden, Rod Johnson, Annette Welch, Daniel Schmidt, Jean Hill, Kris Lyle, Domingo Dominquez, Doyne Cantrell, Tribal Council of Western Cherokee Nation of Arkansas and Missouri v. Brent Bredemeyer, Cary Kuykendall, Larry Armstrong, Curtis Wilson, and Mike Duff, from Polk Circuit. Appeal dismissed. Abramson and Brown, JJ., agree.

[CA11-461](#). Charles E. Welsh v. Mid-South Bulk Services, Inc., from Iazard Circuit. Affirmed. Abramson and Brown, JJ., agree.

RITA W. GRUBER, JUDGE:

[CACR11-585](#). Antonio Wright v. State of Arkansas, from Columbia Circuit. Remanded to settle the record; rebriefing ordered. Vaught, C.J., and Pittman, J., agree.

[CA11-467](#). Henry Nichols and Regions Bank, Trustees for Alpha Trust v. Culotches Bay Navigation Rights Committee, LLC, from Prairie Circuit, Northern District. Affirmed. Vaught, C.J., and Pittman, J., agree.

DAVID M. GLOVER, JUDGE:

[CACR11-537](#). Michael Tyrone Dotson v. State of Arkansas, from Crawford Circuit. Affirmed. Hart and Martin, JJ., agree.

[CA11-451](#). Robert Carr and Marjorie Carr v. James Gillam, from Van Buren Circuit. Affirmed in part; reversed and remanded in part. Hart and Martin, JJ., agree.

RAYMOND R. ABRAMSON, JUDGE:

[CACR10-646](#). Oscar Perez v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Rebriefing ordered. Wynne and Brown, JJ., agree.

[CA11-516](#). Tina Havard and Michael J. Havard v. Jim Bob Clark, from Lonoke Circuit. Affirmed. Wynne and Brown, JJ., agree.

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DOUG MARTIN, JUDGE:

[CA11-355](#). Sandra Foster v. Gilster Mary Lee Corporation and Gallagher Bassett Services, from the Arkansas Workers' Compensation Commission. Affirmed on direct appeal; affirmed on cross-appeal. Hart and Glover, JJ., agree.

CLIFF HOOFFMAN, JUDGE:

[CA11-196](#). City of Forrest City and Municipal League WCT v. Michael L. Long, from the Arkansas Workers' Compensation Commission. Affirmed. Gladwin and Robbins, JJ., agree.

[CA11-388](#). Hazel Sutton, as Administratrix of the Estate of Jennie Faye Rolen, Deceased, and Bessie Tillery v. Charlie Gardner, from Van Buren Circuit. Affirmed. Gladwin and Robbins, JJ., agree.

WAYMOND M. BROWN, JUDGE:

[CACR11-14](#). Derek Lee Jackson v. State of Arkansas, from Pulaski Circuit, Second Division. Affirmed. Wynne and Abramson, JJ., agree.

[CA11-465](#). Jessie Pauline Evans v. SEECO, Inc., from White Circuit. Affirmed. Wynne and Abramson, JJ., agree.

[CA11-608](#). Delores Shaw v. Rheem Mfg. Co., and Old Republic Ins. Co., from the Arkansas Workers' Compensation Commission. Affirmed. Wynne and Abramson, JJ., agree.

[CA11-645](#). Kitchen Distributors and Firstcomp Insurance Company v. Charles Greenlee, from the Arkansas Workers' Compensation Commission. Affirmed. Wynne and Abramson, JJ., agree.

ARKANSAS COURT OF APPEALS

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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(f).

- E11-157. John L. Holmes v. Director et al.
- E11-158. Quick Lay Pipe v. Director et al.
- E11-159. John W. Claggett v. Director et al.
- E11-160. Lynn A. Yount v. Director et al.
- E11-161. Sara K. Bristow v. Director et al.
- E11-162. Billy M. Graves v. Director et al.
- E11-163. Mickey E. Moore v. Director et al.
- E11-164. Galen Ahmar-Rezai v. Director et al.
- E11-165. Kenneth A. Truman v. Director et al.
- E11-166. Benjamin J. Lee v. Director et al.
- E11-167. Joseph L. Harshaw v. Director et al.
- E11-168. Phillip S. Patterson v. Director et al.

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PER CURIAM ORDERS

CACR10-48. Robert William Fischer, Jr. v. State of Arkansas, from Benton Circuit. Motion of Tim Cullen for attorney's fees is granted. Allowed \$1,400.00.

CACR11-291. Akin O. Williams v. State of Arkansas, from Hempstead Circuit. Motion of Bobby R. Digby II, for attorney's fees is granted. Allowed \$1,400.00.

CACR11-304. Ray Lee Anthony v. State of Arkansas, from Craighead Circuit, Western District. Motion of Paul Teufel for attorney's fees is granted. Allowed \$1,400.00.

CACR11-480. Ariel McDaniel v. State of Arkansas, from Pulaski Circuit, Seventh Division. Motion of William O. "Bill" James, Jr., for attorney's fees is granted. Allowed \$1,400.00.

CACR11-880. Eric James Elliott v. State of Arkansas, from Lonoke Circuit. Appellee's motion for compliance with Administrative Order 19 and the rules governing the contents of briefs is denied. Appellee's brief due within fifteen (15) days.

CA10-1248. T.D. v. State of Arkansas, from Faulkner Circuit. Appellee's motion for compliance with Administrative Order 19 and the rules governing the contents of briefs and for extension of brief time is granted. Appellant's conforming brief due within fifteen days. Appellee's brief due within thirty (30) days thereafter.

CA11-650. Donnell Richard v. Union Pacific Railroad Company, from Jefferson Circuit. Appellant's motion to file belated reply brief is granted. Brief filed this date.

CA11-651. Perry Mack v. Union Pacific Railroad Company, from Jefferson Circuit. Appellant's motion to file belated reply brief is granted. Brief filed this date.

CA11-789. Arkansas State Highway Commission v. Thomas Ewell Burrow Family Trust et al., from Garland Circuit. Appellee's motion to dismiss appeal is passed until case is submitted.

CA11-900. Chase Bank USA, N.A. v. Dyke, Henry, Goldsholl & Winzerling, PLC, et al. from Pulaski Circuit, Thirteenth Division. Appellant's motion for expansion of page limit. Granted twelve (12) additional pages of argument.

CA11-965. Aceva Technologies, LLC, et al. v. Tyson Foods, Inc., from Washington Circuit. Appellants' motion to correct record and to stay briefing schedule is denied. Stipulation to the record accepted. Glover, Abramson, and Martin, JJ., not participating.

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PER CURIAM ORDERS

CA11-1015. Smith Land Company, LLC, et al. v. John Hancock Mutual Life Ins. Co., from Columbia Circuit. Appellants' motion for supersedeas bond is granted. *See* [per curiam](#) this date.

CA11-1015. Smith Land Company, LLC, et al. v. John Hancock Mutual Life Ins. Co., from Columbia Circuit. Appellee's motion to set aside order for supersedeas bond is moot.

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MOTIONS SUBMITTED

CACR11-19. Joe McKinley Jones v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of David L. Dunagin for attorney's fees.

CACR11-24. Frank Parmley v. State of Arkansas, from Benton Circuit. Motion of Cecilia Ashcraft for attorney's fees.

CACR11-245. Kendall Maurice Davis v. State of Arkansas, from Craighead Circuit, Western District. Motion of Terry Goodwin Jones for attorney's fees.

CACR11-325. Kirkland Rochelle Foster v. State of Arkansas, from Crittenden Circuit. Motion of Brian Williams for attorney's fee.

CACR11-379. Larry Clayton v. State of Arkansas, from Hot Spring Circuit. Motion of Gregory Crain for attorney's fees.

CACR11-392. Richard Jamal Jacobs v. State of Arkansas, from Crittenden Circuit. Motion of Brian Williams for attorney's fee.

CACR11-479. Michael L. Scales v. State of Arkansas, from Pulaski Circuit, Second Division. Motion of Robert M. "Robby" Golden for attorney's fees.

CACR11-505. Carlton X. Russell v. State of Arkansas, from White Circuit. Motion of Robert M. "Robby" Golden for attorney's fees.

CACR11-1069. Sharvelt Marquette Mister v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of Mosemarie Dora Boyd to withdraw as counsel for appellant and for appointment of David Dunagin as counsel for appellant.

CA11-460. S.M.C. v. State of Arkansas, from Grant Circuit. Appellant's motion to file belated brief.

CA11-464. St. Edwards Mercy Medical Center et al. v. Cassandra Richards Wilson, from Workers' Compensation Commission. Appellee's motion for an award of attorney's fees.

CA11-690. Peter Sam Cyphers et al. v. Louis Lee Cyphers et al., from Union Circuit. Appellants' motion for additional brief time.

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MOTIONS SUBMITTED

CA11-840. Arkansas Elder Outreach of Little Rock, Inc. v. Anniebelle Maness, from Poinsett Circuit. Appellee's motion to consolidate CA11-840 and CA11-767.

CA11-843. Ray Baxter, P.A., et al. v. Jimmy Ray Baxter et al., from Workers' Compensation Commission. Motion of separate appellee, Jimmy Ray Baxter, to dismiss appeal.

CA11-843. Ray Baxter, P.A., et al. v. Jimmy Ray Baxter et al., from Workers' Compensation Commission. Appellants' motion to file belated brief.

CA11-982. Erin M. Fischer v. Damon L. Smith, from Sebastian Circuit, Fort Smith District. Motion of Rex W. Chronister to withdraw as counsel for appellee and for extension of time or to stay briefing schedule.

CA11-1080. Jason Cheney and Mika Cheney v. Arkansas Department of Human Services and Minor Children, from Sebastian Circuit, Fort Smith District. Appellants' motion to correct the record and stay the brief time.

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SUBMISSIONS

CA11-189. Grayson & Grayson, P.A. v. David A. Couch, P.L.L.C., from Pulaski Circuit, Third Division. Argued orally.

CACR11-254. Ronald Deron Green v. State of Arkansas, from Desha Circuit.

CACR11-600. Billy Gene Muncy v. State of Arkansas, from Pope Circuit.

CACR11-735. Brennan Matthew King v. State of Arkansas, from Pulaski Circuit, Fourth Division.

CA10-940. Rebecca Jean Meritt Watkins v. Floyd Charles Watkins, from Phillips Circuit.

CA11-242. Arlie Walls et al. v. Noble Humphries et al., from Van Buren Circuit.

CA11-452. Juanita Dodds Moreland et al. v. Lonzell Dodds et al., from Lincoln Circuit.

CA11-616. Terry Hooten et al. v. Mobley Law Firm, P.A., et al., from Pope Circuit.

CA11-636. James Davis et al. v. Pines Mall Partners, from Jefferson Circuit.

CA11-637. Joe Berry and Beulah Berry v. Neal Moon and Anna Moon, from Crawford Circuit.

CA11-679. Richard Little v. Tyson Poultry, Inc., and Tynet, Inc., from Workers' Compensation Commission.

CA11-680. Joseph Woodmancy v. Framco, Inc., et al., from Workers' Compensation Commission.

CA11-687. Terry Pruitt v. Healthsouth Corp. and ESIS, from Workers' Compensation Commission.

CA11-694. Southwestern Energy Co., Inc., et al. v. Charlie Ezell, from Workers' Compensation Commission.

CA11-723. Jessie Contreras v. Pinnacle Foods Corporation, from Workers' Compensation Commission.

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SUBMISSIONS

CA11-738. Arturo Gomez v. Crossland Construction Co., Inc., and Traveler's Indemnity Company, from Workers' Compensation Commission.

CA11-785. Paula Gammill et al. v. Christa Hoover, from Stone Probate.

CA11-786. Sonia Bell v. Arkansas Department of Human Services, from Sevier Circuit.

CA11-795. Stacy Gentry v. Arkansas Oil Field Services and Chartis Insurance Company, from Workers' Compensation Commission.

CA11-798. Sophia Kanu-Polk v. Conway Human Development Center, from Workers' Compensation Commission.

CA11-804. Yolanda Anderson v. Arkansas Department of Human Services, from Pulaski Circuit, Eighth Division.

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SUBMISSIONS

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

E11-169. AA Auto v. Director et al.

E11-170. Kirk Flenory v. Director et al.

E11-171. Janice S. Brazell v. Director et al.

E11-172. Marsha G. Lawrence v. Director et al.

E11-173. Morrison Shipley Engineers v. Director et al.

E11-174. Floyd K. Sturgeon v. Director et al.

E11-175. Johnnie L. Jones v. Director et al.

E11-177. Lillian F. Atkisson v. Director et al.

E11-178. Jill Bohrer v. Director et al.

E11-179. Scott L. Wade v. Director et al.

E11-180. Laura J. Osmer v. Director et al.

E11-181. Sylvester E. Strickland v. Director et al.