

## ARKANSAS COURT OF APPEALS

No. CA 11-1174

ARLANDS LLC

APPELLANT

V.

MPC COLOR, INC., ET AL.

APPELLEES

**Opinion Delivered** January 18, 2012

APPEAL FROM THE CRAIGHEAD  
COUNTY CIRCUIT COURT,  
WESTERN DISTRICT  
[No. CV 2010-548]

HONORABLE RANDY F.  
PHILHOURS, JUDGE

MOTION DENIED

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### PER CURIAM

This matter is before us on a motion by Liberty Bank for a separate briefing schedule. Because Liberty Bank is not a party to this appeal, the motion is denied. In the circuit court below there were two cases, *Liberty Bank v. Pinpoint Printing*, No. CV 2007-175, and *Arlands LLC v. MPC Color, Inc.*, No. CV 2010-548. On January 4, 2011, an order was entered transferring and consolidating Nos. CV2010-548 and CV2007-175, and the cases (with various cross-claims) were tried together. On August 29, 2011, a joint-final order was entered that purportedly disposed of both cases and all issues. On September 15, 2011, Arlands LLC filed a notice of appeal in No. CV 2010-548 and on September 16, 2011, Liberty Bank filed a notice of appeal in No. CV 2007-175.

In the final order of the trial court entered on August 29, 2011, the court stated:

6. This court has determined this to be a final and appealable order on all issues and parties presented to this court in case No. CV 2007-175. If any party wishes to appeal from case No. CV 2010-548, that shall be done by separate appeal as that case was



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consolidated for hearing purposes in this matter and presents distinct issues from the underlying cause. Accordingly, it is not consolidated for purposes of appeal. Further, this court retains jurisdiction over this matter for the sol [sic] purpose of making determinations with regard to any proposed distribution from the escrow account which may be in dispute.

On November 23, 2011, the attorney for Arlands LLC filed the record in No. CV 2010-548 and paid the filing fee. The record contained a partial summary-judgment order in No. CV 2007-175, the joint final order, and both notices of appeal filed in the cases below, in addition to all of the pleadings in No. CV 2010-548, the transcript of the joint trial, and all exhibits from the trial. Our clerk assigned No. CA 11-1174 to the case but erroneously listed Liberty Bank as the appellant because the notice of appeal in CV 2007-175 appeared in the record first. Liberty was sent a briefing schedule and has filed the motion for a separate briefing schedule now before us. Arlands LLC has responded, and it is apparent from a review of the record that Liberty Bank never perfected its appeal in No. CV 2007-175 because no record in that case was ever filed.

Because no appeal has been perfected in No. CV 2007-175, Liberty Bank is not a party to No. CA 11-1174 and its motion is denied. The clerk is instructed that the proper parties to No. CA 11-1174 are those parties in No. CV 2010-548.

Motion denied.