

# ARKANSAS COURT OF APPEALS

DIVISION III

No. CA11-319

METRO EMPIRE LAND  
ASSOCIATION, LLC, GARLAND  
TRICE, and LEOMA LAMBERT  
APPELLANTS

V.

ARLANDS, LLC, and MARK WILCOX,  
COMMISSIONER of STATE LANDS  
APPELLEES

Opinion Delivered FEBRUARY 8, 2012

APPEAL FROM THE JEFFERSON  
COUNTY CIRCUIT COURT,  
[NO. CV-2005-765-5]

HONORABLE LYNN WILLIAMS,  
JUDGE

REBRIEFING ORDERED

---

## CLIFF HOOFFMAN, Judge

Appellants Metro Empire Land Association, LLC, Garland Trice, and Leoma Lambert bring this appeal from the order of the Jefferson County Circuit Court that granted summary judgment in favor of appellee Arlands, LLC, on its suit to quiet title to property purchased at a tax sale conducted by appellee Mark Wilcox, the commissioner of state lands. They assert that the circuit court erred in granting summary judgment and argue that Arlands failed to establish the absence of genuinely disputed facts or that it was entitled to judgment as a matter of law. We do not reach the merits of the appeal; instead, we order rebriefing because of problems with appellants' brief.

Arkansas Supreme Court Rule 4-2(a)(6) provides rules for an appellant's statement of the case. The Rule states in pertinent part that "[t]he statement must include supporting page references to the abstract or addendum or both. The Clerk will refuse to accept a brief if the



required references to the abstract or addendum are not included.” Rule 4-2(a)(7) provides rules for the argument section, and it states in pertinent part that “[r]eference in the argument portion of the parties’ briefs to material found in the abstract and addendum shall be followed by a reference to the page number of the abstract or addendum at which such material may be found.”

Portions of appellants’ statement of the case and argument contain citation references to the location of documents in the record, instead of the addendum as required by Rule 4-2. Moreover, many of the references to the addendum are simply incorrect and do not cite to the document intended. We have previously ordered rebriefing when our efforts to examine relevant parts of the testimony and evidence were frustrated by the lack of proper references. See *King v. Baxter County Reg’l Hosp.*, 79 Ark. App. 97, 86 S.W.3d 13 (2002). We find that rebriefing is necessary here.

We also note that appellants’ addendum contains items that are not part of the record. We do not consider matters that are not part of the record. *Union Pac. R.R. Co. v. Barber*, 356 Ark. 268, 149 S.W.3d 325 (2004). Additionally, appellants’ addendum does not contain all of the affidavits and briefs pertaining to the motions for summary judgment or the trial court’s letter opinion announcing its decision. Although Arlands has filed a supplemental addendum, if more documents are necessary, it is appellants’ responsibility to provide an abstract and addendum sufficient to conduct a meaningful review. *Bryan v. City of Cotter*, 2009 Ark. 172, 303 S.W.3d 64.

We order appellants to cure the deficiencies by filing a substituted brief within fifteen



Cite as 2012 Ark. App. 132

days from the date of this opinion. Ark. Sup. Ct. R. 4-2(c)(2). We encourage appellate counsel to review Rules 4-2 and 4-3 to ensure that the substituted brief complies with the rules and that no additional deficiencies are present. In the event appellants fail to file a complying brief within the requisite time period, the judgment may be affirmed for noncompliance with the rule. *Id.*

Rebriefing ordered.

VAUGHT, C.J., and ABRAMSON, J., agree.

*Cross & Kearney, PLLC*, by: *Jesse L. Kearney*, for appellant.

*Hurley & Whitwell, PLLC*, by: *Stephen E. Whitwell*, for appellee.