

# ARKANSAS COURT OF APPEALS

DIVISION IV  
No. CA12-235

JAMES STRANGE and KAREN  
STRANGE

APPELLANTS

V.

THE MARY K. REED TRUST

APPELLEE

Opinion Delivered October 24, 2012

APPEAL FROM THE VAN BUREN  
COUNTY CIRCUIT COURT  
[CV-09-218]

HONORABLE MICHAEL A.  
MAGGIO, JUDGE

DISMISSED

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**DAVID M. GLOVER, Judge**

The Mary K. Reed Trust (the Trust<sup>1</sup>) filed its complaint on July 6, 2009, to establish an easement by prescription concerning a roadway that crossed land owned by appellants, James and Karen Strange. The roadway provided access to adjacent land owned by the Trust. The trial court heard extensive testimony before entering the following order on December 16, 2011:

In this case, the roadway over the [Stranges'] real property is the only means of access to the [Trust's] property. Since the time of the [Trust's] ownership of the property in 2000, as well as during the time of ownership of its predecessor in title, since at least 1965, the roadway has been used on a regular basis to access the property by its trustees, beneficiaries of the trust and invitees of the [Trust], all agents of the [Trust]. The [Trust] and its predecessor in title maintained the

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<sup>1</sup>The Mary K. Reed Trust was created on June 15, 2000, by Mary K. Reed, grantor and trustee.



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roadway as its own property. Maintenance by the [Trust] and its predecessor included having the roadway graded and pruning trees that cross the roadway.

Use of the roadway became adverse after the [Stranges] acquired the property adjacent to that of the [Trust] in 1999 and Defendant James Strange began making statements to agents and trustees of the [Trust] that he did not want anyone accessing the roadway on his property. Despite these statements, the [Trust] and its beneficiaries and agents continued using the roadway to access its property. Sometime around 2006, the [Stranges] attempted to block the roadway by placing hay bales across the entrance of the roadway. The barrier was removed by the [Trust's] agents in order to access the property, which they did. [The Trust] and its agents continue to use the roadway to access the roadway [sic].

As their sole point of appeal, the Stranges contend that the trial court erred in declaring that the Trust had a prescriptive easement over their land. We dismiss this appeal for lack of a final order.

As we explained in *Dohle v. Duffield*, 2011 Ark. App. 135, an order must describe the boundary line, or, as in the instant case, the prescriptive easement, with sufficient specificity that it may be identified solely by reference to the order because a failure to do so is likely to result in additional disputes and piecemeal litigation and appeals. We further explained that dismissal for failure to provide a sufficient legal description in the order is not always necessary. *Id.* That is, if nothing remains to be done, but a trial court's order does not describe a prescriptive easement with sufficient specificity so that it can be identified solely by reference to the order, we may remand for the trial court to amend the order and provide the easement's legal description. *Id.* Notwithstanding the lengthy witness list, our review of the record in the instant case convinces us that it does not contain sufficient evidence to permit the trial court to set forth the specific description of



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the prescriptive easement without further proceedings. Accordingly, we hold that the order lacks finality and the appeal is premature. We therefore dismiss the appeal without prejudice.

Dismissed.

GLADWIN and GRUBER, JJ., agree.

*Jerry D. Patterson*, for appellant.

*Jensen Young & Houston, PLLC*, by: *Brent Houston*, for appellee.