

ARKANSAS COURT OF APPEALS

DIVISION II
No. CV-14-905

GARY STEVE LLOYD

APPELLANT

V.

PIER WEST PROPERTY OWNERS
ASSOCIATION and STATE FARM
FIRE AND CASUALTY COMPANY

APPELLEES

Opinion Delivered APRIL 15, 2015

APPEAL FROM THE GARLAND
COUNTY CIRCUIT COURT
[NO. CV-12-435-4]

HONORABLE MARCIA R.
HEARNSBERGER, JUDGE

SUPPLEMENTAL RECORD AND
ADDENDUM ORDERED

KENNETH S. HIXSON, Judge

Appellant Gary Steve Lloyd was seriously and permanently injured as the result of a fall from a second floor common-area balcony of a condominium building located at 100 Bayou Point in Hot Springs, Arkansas. The property is known as Pier West Condominiums. Lloyd appeals the entry of summary judgment against him and in favor of appellee Pier West Property Owners Association (“Pier West”) regarding his lawsuit alleging negligence in the installation and maintenance of the wooden balcony railing.¹ The trial court found that, as

¹Lloyd also filed suit against Hot Springs Property Management, LLC (the property management company contracted to manage these condominiums), State Farm Fire and Casualty Company (the insurance company that issued a residential community association liability policy on the property), and Deborah Shackleford (the owner of Unit D4, the unit rented by Monda Conner, the resident who invited Lloyd to the premises). Summary judgment was entered in favor of all these defendants as well, but Lloyd does

a matter of law, Lloyd's status was that of a licensee, that there was no willful or wanton conduct on Pier West's part, that Lloyd failed to produce evidence that Pier West had knowledge of the alleged dangerous condition, and that Lloyd failed to present any evidence of a breach of the accompanying duty to a licensee imposed by Arkansas law. Lloyd posits the following arguments for reversal and remand for trial:

- (1) That Pier West owed a duty of reasonable care to Lloyd;
- (2) That Pier West's assumption of that duty extends to all persons on the property whether an invitee or licensee;
- (3) That Pier West's purchase of business liability insurance is further evidence that it assumed a duty of care to third party invitees such as Lloyd; and
- (4) That Pier West owed a duty to Lloyd who was a public invitee.

We cannot reach the merits of Lloyd's appeal due to deficiencies in the record and addendum. Arkansas Supreme Court Rule 4-2(a)(8)(A)(i) (2014) requires that the addendum to an appellant's brief include the pleadings on which the circuit court decided each issue, specifically identifying the complaint and answer. Rule 4-2(a)(8)(A)(i) further provides that if any pleading is amended, then the final version and any earlier version incorporated therein must be included in the addendum. A review of Lloyd's brief reveals that he failed to include his second amended complaint, his third amended complaint, and Pier West's answer to the third amended complaint. These pleadings were filed prior to the entry of summary judgment on Pier West's behalf and are necessary for us to consider this appeal. In addition, we note that two pages of the second amended complaint are omitted from the record, as well as one page of the third amended complaint. If anything material to either party is omitted from the

not appeal those summary-judgment orders.

record, we may direct that a supplemental record be certified and transmitted. Ark. R. App. P.–Civ. 6(e) (2014). Lloyd has thirty days to file the supplemental record with our clerk’s office. Pursuant to Rule 4-2(b)(4), we order Lloyd to file a supplemental addendum within seven calendar days of the supplemental record being filed to provide the additional materials from the record to the members of the appellate court. The materials listed herein are not to be taken as an exhaustive list of deficiencies; appellant should carefully review the rules to ensure that no other deficiencies exist. *See Smith v. Lovelace*, 2014 Ark. App. 187.

Supplemental record and addendum ordered.

KINARD and GLOVER, JJ., agree.

Jim Jackson Law Firm, PA, by: *Jim Jackson*;
Cullen & Co., PLLC, by: *Tim Cullen*; and
Callis L. Childs, PA, by: *Callis Childs*, for appellant.

Elliot Law Firm, by: *Jeffrey C. Elliot*, for appellee.