

ARKANSAS COURT OF APPEALS

DIVISION I
No. CV-14-1090

JOAN TILLMAN BELCHER, SPECIAL
ADMINISTRATRIX of THE ESTATE of
CORNELIUS TILLMAN, DECEASED
APPELLANT

V.

JERRY DENTON

APPELLEE

Opinion Delivered April 22, 2015

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT,
THIRD DIVISION
[NO. 60CV-12-3452]

HONORABLE CHRIS PALMER,
JUDGE

REBRIEFING ORDERED

WAYMOND M. BROWN, Judge

Joan Tillman Belcher, Special Administratrix of the Estate of Cornelius Tillman, appeals the June 19, 2014 judgment of the Pulaski County Circuit Court finding that Cornelius was forty-nine point nine percent (49.9%) at fault in causing his death and reducing the \$7,612 judgment by that percentage. On appeal, appellant argues that: (1) there was no evidence that Cornelius was negligent, and, therefore, the issue of his negligence should not have been submitted to the jury; (2) the jury instructions and verdict form given to the jury were improper; and (3) the damages awarded by the jury were insufficient and failed to take into account all elements of the injury proven. However, we do not address the issues raised due to deficiencies in appellant's abstract, addendum, and brief.

Arkansas Supreme Court Rule 4-2¹ sets forth the requirements for the contents of appellate briefs. Rule 4-2(a)(5)(B) requires that no more than one page of transcript shall be abstracted without giving a record page reference. Appellant's abstract violates this rule in several instances, and gives no explanation or summary of the proceedings before testimony of the witnesses or actions by the court.²

Arkansas Supreme Court Rule 4-2(a)(8) requires that an appellant's brief include an addendum consisting of all documents essential to this court's resolution of the issues on appeal, including exhibits. Here, appellant has failed to include a copy of the DVD, relied on by the witnesses, in the addendum. Appellant has also failed to include several of the instructions provided to the jury.³ Additionally, as part of the third point on appeal, appellant contends that the judgment awarded prior to the reduction was the exact amount of Cornelius's funeral costs. There is nothing in the abstract, brief, or addendum to support this contention. However, if evidence of Cornelius's funeral expenses exists, it too, should be included in the addendum.

¹(2014).

²For example, the abstract jumps from page 184 to page 278 of the record without explanation; other examples include jumping from: 321 to 325, 377 to 381, 398 to 478, 508 to 519, 607 to 613, 656 to 662, 662 to 666, 676 to 681, 682 to 689, 766 to 771, 778 to 786, 795 to 800. There are also instances throughout the abstract where one to two pages of the record are skipped without explanation. Additionally, there are instances in which the wrong page numbers are referenced.

³Appellee has included five of the missing instructions in its supplemental addendum; however, not all jury instructions essential to this court's resolution of the appeal have been accounted for.

Due to the deficiencies in appellant's abstract, addendum, and brief, we order appellant to file within fifteen days of this opinion a substituted abstract, addendum, and brief that complies with our rules.⁴ We remind counsel that the examples we have noted are not to be taken as an exhaustive list of deficiencies. Counsel should carefully review the rules to ensure that no other deficiencies exist.

Rebriefing ordered.

VAUGHT and HOOFFMAN, JJ., agree.

The Law Offices of Peter Miller, P.A., by: *Jessica Virden*, for appellant.

W. Lee Tucker, PLLC, by: *W. Lee Tucker*, for appellee.

⁴Ark. Sup. Ct. R. 4-2(b)(3).