

**ARKANSAS COURT OF APPEALS**

**PROCEEDINGS OF JANUARY 27, 2016**

**ROBERT J. GLADWIN, CHIEF JUDGE:**

[CV-15-263](#). Farris E. Holliman; Sheila D. Holliman; and Leon Holliman, in His Individual Capacity and as Trustee of the Zoe Holliman Revocable Trust v. Linda S. Johnson, in Her Individual Capacity and as Successor Trustee of the Zoe Holliman Revocable Trust, and Garry W. Holliman, in His Individual Capacity and as Trustee of the Zoe Holliman Revocable Trust, from Cleburne County Circuit Court. Affirmed. Abramson and Brown, JJ., agree.

[CV-15-623](#). Arkansas Department of Correction; Public Employee Claims Division v. Andrew Lee Clinkscale, from the Arkansas Workers' Compensation Commission. Affirmed. Abramson and Brown, JJ., agree.

**RAYMOND R. ABRAMSON, JUDGE:**

[E-15-227](#). Assisted Care for Seniors v. Director, Department of Workforce Services and Vicky Emberton, from the Arkansas Board of Review. Affirmed. Gladwin, C.J., and Brown, J., agree.

**BART F. VIRDEN, JUDGE:**

[CV-15-550](#). Bennie Whitehead v. Arkansas Department of Human Services and Minor Child, from Pulaski County Circuit Court, Tenth Division. Reversed and remanded. Abramson and Whiteaker, JJ., agree.

[CV-15-750](#). William Norton v. Arkansas Department of Human Services and Minor Child, from Greene County Circuit Court. Affirmed. Kinard and Glover, JJ., agree.

**BRANDON J. HARRISON, JUDGE:**

[CV-11-1243](#). Ryan Roggasch and Elite Homes of Arkansas, Inc. v. Tasha Sims and John Sims, from Saline County Circuit Court. Affirmed. Vaught and Hixson, JJ., agree.

[CV-15-63](#). Eileen Madden v. Mercedes-Benz USA, Inc. et al., from Jackson County Circuit Court. Affirmed. Vaught and Hixson, JJ., agree.

**M. MICHAEL KINARD, JUDGE:**

[CV-15-443](#). John Cecil Green and Gail Green v. David Stueve, from Logan County Circuit Court, Northern District. Appeal dismissed without prejudice. Virden and Glover, JJ., agree.

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RITA W. GRUBER, JUDGE:

[CR-15-455](#). Lashawn Heath v. State of Arkansas, from Crittenden County Circuit Court. Remanded to settle and supplement the record; rebriefing ordered. Whiteaker and Hoofman, JJ., agree.

DAVID M. GLOVER, JUDGE:

[CV-15-516](#). Marion Carlton as Trustee of the Rice Inter Vivos Real Estate Trust, as Trustee of the Eugene Rice Family Trust, and as Trustee of the Bertha Rice Family Trust v. Grace Ellen Rice, from Lonoke County Circuit Court. Reversed and remanded. Harrison and Hixson, JJ., agree.

[CV-15-777](#). Melissa Johnson v. Arkansas Department of Human Services and Minor Children, from Crawford County Circuit Court. Affirmed. Kinard, J., agrees. Virden, J., concurs.

PHILLIP T. WHITEAKER, JUDGE:

[CV-15-579](#). Sisters of Mercy Health System and St. Mary Rogers Memorial Hospital v. James Fouts, from the Arkansas Workers' Compensation Commission. Affirmed. Gruber and Hoofman, JJ., agree.

[E-15-242](#). Brenda McAteer v. Director, Department of Workforce Services, and Amerities South LLC, from the Arkansas Board of Review. Affirmed. Gruber and Hoofman, JJ., agree.

LARRY D. VAUGHT, JUDGE:

[CV-15-749](#). Valerie Robinson v. Arkansas Department of Human Services and Minor Children, from Miller County Circuit Court. Affirmed. Harrison and Hixson, JJ., agree.

KENNETH S. HIXSON, JUDGE:

[CR-15-139](#). Ramon Perez v. State of Arkansas, from Lonoke County Circuit Court. Reversed and remanded. Harrison, Kinard, Hoofman, and Brown, JJ., agree. Gruber, J., dissents.

[CV-15-668](#). Carl Wilhelm v. Chuck Parsons, Ray Parsons, and Chuck's Metal Buildings, Inc., from the Arkansas Workers' Compensation Commission. Affirmed. Harrison and Vaught, JJ., agree.

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#### CLIFF HOOFFMAN, JUDGE:

[CV-15-323](#). Thresa Kay Shamburger v. Robert Shamburger; Sarah Jane Shamburger; James D. Shamburger, Jr.; Ricky Alan Johnson; Karyn Ann Johnson; S.E. Management, LLP; Bryant Hospitality, LLP; Winners Circle Hospitality, LLC; CMH Management, LLP; and SJS Management, LLP, from Faulkner County Circuit Court. Reversed and remanded. Gruber and Whiteaker, JJ., agree.

[CV-15-783](#). Jon Christopher Bean and Jennifer Bean v. Arkansas Department of Human Services, from Benton County Circuit Court. Dismissed without prejudice. Gruber and Whiteaker, JJ., agree.

#### WAYMOND M. BROWN, JUDGE:

[CR-15-555](#). Arick Johnson v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Affirmed. Gladwin, C.J., and Abramson, J., agree.

[CV-14-1007](#). Arkansas Insurance Department v. Racheal Henley, from Crawford County Circuit Court. Appeal dismissed. Gladwin, C.J., and Abramson, J., agree.

#### PER CURIAM DECISIONS

**The following cases appealed from the Arkansas Board of Review are affirmed without written opinion pursuant to Supreme Court Rule 5-2(f).**

E-15-577. Hillary Browning v. Director et al.

E-15-578. Daniel Avey v. Director et al.

E-15-579. Colt Cockrell v. Director et al.

E-15-580. Stephanie Gatewood v. Director et al.

E-15-581. Alicia Banks v. Director et al.

E-15-582. Jerry Baker v. Director et al.

E-15-583. Timothy Brace v. Director et al.

E-15-584. Janice Jones v. Director et al.

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- E-15-585. Erica Wade v. Director et al.
- E-15-586. Thomas Boone v. Director et al.
- E-15-587. Lamont Tayes v. Director et al.
- E-15-588. Debora Raper v. Director et al.
- E-15-589. Jasmine Smith v. Director et al.
- E-15-590. Elizabeth Hamm v. Director et al.
- E-15-591. Kelly Braton v. Director et al.
- E-15-592. James Harris v. Director et al.
- E-15-593. Josh Fernandez v. Director et al.
- E-15-595. Lesa Smith v. Director et al.
- E-15-596. Robert Cain v. Director et al.
- E-15-597. Stuart Hunt v. Director et al.
- E-15-598. Megan Keith v. Director et al.
- E-15-599. Derek Usery, Jr. v. Director et al.
- E-15-600. James Lofton v. Director et al.

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**PER CURIAM ORDERS**

PETITION FOR REHEARING: Petition for rehearing was granted today in the following case.

[CV-15-300](#). Priscilla Ponder v. Arkansas Department of Human Services and A.P., E.P., and J.P., Minor Children, from Union County Circuit Court. **See substituted opinion this date.**

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CR-14-761. Michael E. Childers v. State of Arkansas, from Conway County Circuit Court. Motion of Justin Eisele for payment of fee is granted. Allowed \$1,800.00.

CR-15-577. Michael Hunter v. State of Arkansas, from Columbia County Circuit Court. Appellant's motion to correct the record is granted.

CR-15-691. Demarcus Brown v. State of Arkansas, from Phillips County Circuit Court. Appellant's motion for extension of time to file supplemental record is granted.

CR-15-772. Cory D. Fletcher v. State of Arkansas, from Benton County Circuit Court. Appellee's motion to dismiss, or, in the alternative, motion for extension of time in which to file brief. Motion to dismiss is passed until case is submitted. Motion for extension of time in which to file brief is granted.

CV-15-232. Partne A. Kiesling-Daugherty v. Judge Floyd "Buddy" Villines, Amanda Mankin-Mitchell, and Chasity Black-Scifres, from Pulaski County Circuit Court, Sixth Division. Appellant's pro se motion for extension of time is denied. Gruber and Vaught, JJ., not participating.

CV-15-232. Partne A. Kiesling-Daugherty v. Judge Floyd "Buddy" Villines, Amanda Mankin-Mitchell, and Chasity Black-Scifres, from Pulaski County Circuit Court, Sixth Division. Declaration that appellant filed in a timely manner under Administrative Order 21, Section 2(i), in the alternative, declaration that appellant was unable to file in a timely manner is moot. Gruber and Vaught, JJ., not participating.

CV-15-232. Partne A. Kiesling-Daugherty v. Judge Floyd "Buddy" Villines, Amanda Mankin-Mitchell, and Chasity Black-Scifres, from Pulaski County Circuit Court, Sixth Division. Appellees' motion to dismiss and response to appellant's motion for extension of time is granted. Gruber and Vaught, JJ., not participating.

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### PER CURIAM ORDERS

CV-15-653. Monroe Carlton, Jerry Rice, Kathy Rice, Amanda Rice, Meredith Lemons, Miranda Pascoe, and Margaret Pleasants v. Grace Rice, from Lonoke County Circuit Court. Appellants' supplement, with transcript, to second petition for writ of certiorari to complete record and motion for reconsideration or rehearing of denial is granted. Gladwin, C.J., and Gruber and Whiteaker, JJ., not participating.

CV-15-655. Monroe Carlton, Jerry Rice, Kathy Rice, Amanda Rice, Meredith Lemons, Miranda Pascoe, and Margaret Pleasants v. Grace Rice, from Lonoke County Circuit Court. Appellants' supplement, with transcript, to second petition for writ of certiorari to complete record and motion for reconsideration or rehearing of denial is granted. Gladwin, C.J., and Gruber and Whiteaker, JJ., not participating.

CV-15-726. Gregory Taylor v. Woody Doss, Gregory Clark, Chris Mitchell, and Tyson Foods, Inc., from Washington County Circuit Court. Appellees' motion to redact portions of the record on appeal is granted.

CV-15-743. Capital SeniorCare Ventures, LLC, et al. v. Annette Williamson, as Personal Representative of the Estate of Jerline Kennel, Deceased, and on Behalf of the Wrongful Death Beneficiaries of Jerline Kennel, from Clark County Circuit Court. Appellee's second motion for extension of time is granted. Gladwin, C.J., would deny.

CV-15-746. Capital SeniorCare Ventures, LLC, et al. v. Ericka Ann Davis, as Special Administrator for the Estate of Julius Marks, Deceased, from Clark County Circuit Court. Appellee's second motion for extension of time is granted. Gladwin, C.J., would deny.

CV-15-771. Patton Hospitality Management, LLC v. Bella Vista Village Coopershares Owners Association, Inc.; Rice Brown; Melvin Brown; James Aucoin; Priscilla Johnnie; and Terri Hein, from Benton County Circuit Court. Joint motion to dismiss contingent upon vacatur of underlying judgments is denied. Harrison, J., not participating.

CV-15-784. Dustin Marvel v. Lindsey Marvel, from Johnson County Circuit Court. Motion of Andy Taylor to withdraw as counsel and for extension of brief time is granted.

CV-15-991. Jacqueline Ferguson and Chris Ferguson v. Arkansas Department of Human Services and Minor Children, from Lonoke County Circuit Court. Joint motion to accept supplemental record is granted.

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**PER CURIAM ORDERS**

CV-15-1030. Claude D. Wallace, as Trustee of the Claude D. Wallace Living Trust Dated July 31, 2005; and Dana Hutchinson v. Arkansas Oil and Gas Commission, XTO Energy Inc., and SEECO, Inc., from Cleburne County Circuit Court. Motion of appellee XTO Energy Inc. to dismiss appeal is granted.

CV-15-1033. Johnny Warren v. Anthony Frizell, Jr., from Pulaski County Circuit Court, Twelfth Division. Appellee's motion to supplement the record is granted.

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**MOTIONS SUBMITTED**

PETITION FOR REHEARING:

CV-15-669. Samantha Samuels and Shandon Samuels v. Arkansas Department of Human Services and Minor Child, from Washington County Circuit Court.

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CR-14-981. Anthony Billy James Burnell v. State of Arkansas, from Garland County Circuit Court. Motion of Charles “Dan” Hancock for award of attorney’s fees.

CR-15-9. Zackery Warren Shadwick v. State of Arkansas, from Johnson County Circuit Court. Motion of Robert M. “Robby” Golden for award of attorney’s fees.

CR-15-140. James Mikel Reep v. State of Arkansas, from Saline County Circuit Court. Motion of John Ogles for attorney’s fees.

CR-15-277. Kendrick D. Dukes v. State of Arkansas, from Arkansas County Circuit Court, Northern District. Motion of Doralee Chandler for attorney’s fees.

CR-15-364. Monica Morris v. State of Arkansas, from Poinsett County Circuit Court. Motion of Paul J. Teufel for attorney’s fees.

CR-15-375. Adam Eugene Lane v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Motion of Brett D. Watson for attorney’s fees.

CV-15-728. Joe T. Benton III et al. v. Bruce Smith and Jan Smith, from Cleburne County Circuit Court. Appellants’ motion for approval of supersedeas bond and for entry of supersedeas order staying judgment pending appeal.

CV-15-858. Michael A. Reichert v. Amy Smith, from Pulaski County Circuit Court, Fourteenth Division. Appellee’s combined motion to dismiss appeal for want of jurisdiction, to stay briefing schedule, or to extend time.

CV-15-882. Jessica Clark v. Arkansas Department of Human Services and Minor Child, from Ouachita County Circuit Court. Appellant’s motion for reconsideration.

CV-15-1008. Ray Ellis v. Arkansas Department of Human Services and Minor Child, from Craighead County Circuit Court, Western District. Joint motion to correct the record and to stay briefing schedule.



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**MOTIONS SUBMITTED**

CV-15-1054. Bernastine L. Coleman Bullard v. Michael Coleman, from Jefferson County Circuit Court. Motion of Alex Guynn to withdraw.

CV-16-16. Davis A. Stebbins v. David D. Stebbins, from Boone County Circuit Court. Appellant's pro se motion to relax copy requirements.

CV-16-16. Davis A. Stebbins v. David D. Stebbins, from Boone County Circuit Court. Appellant's pro se motion for leave to file extra-long argument.

CV-16-16. Davis A. Stebbins v. David D. Stebbins, from Boone County Circuit Court. Appellant's pro se motion for summary reversal and for findings of fact and conclusions of law.

CV-16-26. McCain Mall Company Limited Partnership v. Ethel Long, from Pulaski County Circuit Court, Twelfth Division. Appellant's motion to stay briefing schedule.

E-16-30. Tivvone Davison v. Director et al., from the Arkansas Board of Review. Respondent's motion to dismiss.

E-16-33. Stefi Powell v. Director et al., from the Arkansas Board of Review. Pro se motion for belated appeal.

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### CASES SUBMITTED

CV-15-45. Elizabeth Ann Williamson, as Administrator of the Estate of Cynthia Frazier, Deceased, and on Behalf of the Wrongful Death Beneficiaries of Cynthia Frazier v. Baptist Health Medical Center, from Pulaski County Circuit Court, Third Division. Orally argued.

CR-15-64. Francisco Reyes Medley v. State of Arkansas, from Saline County Circuit Court.

CR-15-551. D.D.T. v. State of Arkansas, from Faulkner County Circuit Court.

CR-15-613. Michael Burgess v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division.

CR-15-738. Nathan L. Inskeep v. State of Arkansas, from Greene County Circuit Court.

CV-15-1. Tierra Stewart and Randall Stewart v. Estate of Bobby Nolan Herring, from Drew County Circuit Court.

CV-15-163. Gary Howard, Individually, and as Administrator of the Estate of Odis Howard, Deceased v. Lauren Adams, Don Brady, Todd Mazzanti, and Adams, Brady, & Jackson, PLLC, from Benton County Circuit Court.

CV-15-348. Michael R. Woodward v. Arkansas State Police Commission, from Pulaski County Circuit Court, Sixteenth Division.

CV-15-599. Stefanie Emerson v. James Emerson, from Crittenden County Circuit Court.

CV-15-602. Watson Chapel School District v. June Vilches, from Jefferson County Circuit Court.

CV-15-609. George Wheatley and Velocity Sports Academy v. Dixie Mall 2003, LLC, from Benton County Circuit Court.

CV-15-610. Ricky Whitecotton and Denene Whitecotton v. Arlis Ray Owen and Jeannie Owen, from Logan County Circuit Court, Northern District.

CV-15-619. Sarah C. Gildehaus v. Arkansas Alcoholic Beverage Control Board and Christopher Moore, from Benton County Circuit Court.

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### CASES SUBMITTED

CV-15-654. Laroy Foster v. Gerald L. Wasson, Lisa Wasson, and Lloyd Guffey, from Fulton County Circuit Court.

CV-15-717. Get Rid of It Arkansas and Commerce & Industry Insurance Company v. Curtis Graham, from the Arkansas Workers' Compensation Commission.

CV-15-735. Lowe's Home Centers and Sedgwick Claims Management v. Shawn Pope, from the Arkansas Workers' Compensation Commission.

CV-15-818. Melody Hunter v. Arkansas Department of Human Services and Minor Child, from IZard County Circuit Court.

#### **The following cases are appeals from the Arkansas Board of Review.**

E-14-450. Juan Saldana v. Director et al.

E-15-628. Brittany Ewans v. Director et al.

E-15-629. John Hogan v. Director et al.

E-15-630. The Bank of Fayetteville v. Director et al.

E-15-631. Rolanda Foreman v. Director et al.

E-15-632. Donald Briggs v. Director et al.

E-15-633. Kenneth Buckley v. Director et al.

E-15-634. Darlene Parks v. Director et al.

E-15-635. Kimberly Hendrix v. Director et al.

E-15-636. Lashedrick Dailey v. Director et al.

E-15-637. Francisca Lopez v. Director et al.

E-15-638. Harold West v. Director et al.

E-15-639. Crestpark Marianna, LLC v. Director et al.

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**CASES SUBMITTED**

- E-15-640. Mary Evans v. Director et al.
- E-15-641. Fonda Waldrop v. Director et al.
- E-15-642. Freddie Yarbrough v. Director et al.
- E-15-643. Marsha Stovall v. Director et al.
- E-15-644. Morgan Vision Clinic v. Director et al.
- E-15-645. Claude McPike v. Director et al.
- E-15-646. Tommy Madden v. Director et al.
- E-15-647. Lonzell Terry v. Director et al.
- E-15-648. Phillip McCray v. Director et al.
- E-15-650. David Miles v. Director et al.
- E-15-651. Donald Couch v. Director et al.
- E-15-652. Phillip Little v. Director et al.