

**ARKANSAS COURT OF APPEALS**

**PROCEEDINGS OF MARCH 8, 2017**

RITA W. GRUBER, CHIEF JUDGE:

[CR-16-856](#). Oliver W. Hart III v. State of Arkansas, from Miller County Circuit Court. Remanded for correction and supplementation of record; rebriefing ordered. Klappenbach and Glover, JJ., agree.

[CV-16-797](#). Daniel R. Mills v. Aerocare Holdings, Inc., and Standard Fire Insurance Company, from the Arkansas Workers' Compensation Commission. Affirmed. Klappenbach and Glover, JJ., agree.

RAYMOND R. ABRAMSON, JUDGE:

[CV-16-478](#). Marti Johnson v. William Young, from Phillips County Circuit Court. Reversed and remanded; cross-appeal rendered moot. Virden and Gladwin, JJ., agree.

[CV-16-783](#). Anthony Yates v. Boar's Head Provisions Co., Inc., and American Zurich Insurance Company, from the Arkansas Workers' Compensation Commission. Affirmed. Virden and Gladwin, JJ., agree.

BART F. VIRDEN, JUDGE:

[CV-16-335](#). Brad W. Davenport v. Deutsche Bank National Trust Company, as Trustee, in Trust for the Registered Holders of Morgan Stanley Abs Capital I Trust 2006-HE7 Mortgage Pass-Through Certificates, Series 2006-HE7, from Faulkner County Circuit Court. Appeal dismissed. Abramson and Gladwin, JJ., agree.

[CV-16-749](#). James Hubbard v. Riceland Foods, Liberty Mutual Insurance Company, and Death & Permanent Total Disability Trust Fund, from the Arkansas Workers' Compensation Commission. Affirmed. Abramson and Gladwin, JJ., agree.

[CV-16-846](#). Tracy French v. State of Arkansas, from Hot Spring County Circuit Court. Dismissed. Abramson and Gladwin, JJ., agree.

ROBERT J. GLADWIN, JUDGE:

[CR-16-792](#). Arkansas Department of Human Services v. State of Arkansas, from Pulaski County Circuit Court, Eleventh Division. Affirmed. Abramson and Virden, JJ., agree.

[CR-16-795](#). Arkansas Department of Human Services v. State of Arkansas, from Pulaski County Circuit Court, Eleventh Division. Affirmed. Abramson and Virden, JJ., agree.

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BRANDON J. HARRISON, JUDGE:

[CV-16-519](#). Thomas Ellis Stuart v. Arkansas Department of Finance and Administration, Larry Walther, Director, from Drew County Circuit Court. Affirmed. Hixson and Brown, JJ., agree.

[CV-16-601](#). Arkansas Department of Human Services v. Tomisha Lewis and Minor Children, from Pulaski County Circuit Court, Tenth Division. Affirmed. Whiteaker, Vaught, and Brown, JJ., agree. Hixson and Murphy, JJ., dissent.

[CV-16-770](#). Lentz Carrier Company, LLC, and Carolina Casualty Insurance Company v. Robert Smith, Southern Chips, Inc., and First Liberty Insurance Corporation, from the Arkansas Workers' Compensation Commission. Remanded; motion granted. Hixson and Brown, JJ., agree.

N. MARK KLAPPENBACH, JUDGE:

[CV-16-565](#). Multi-Craft Contractors, Inc., and Gallagher Bassett Services, Inc. v. Rick Yousey, from the Arkansas Workers' Compensation Commission. Reversed in part and affirmed as modified in part on direct appeal; affirmed in part and affirmed as modified in part on cross-appeal. Gruber, C.J., and Glover, J., agree.

[CV-16-684](#). Laurie D. Farrow v. Sheila Fuller, as Administratrix of the Estate of Richard Bloch, Deceased, and Autumn Breeze Restaurant, Inc., from Carroll County Circuit Court, Western District. Affirmed in part; reversed and remanded in part. Gruber, C.J., and Glover, J., agree.

[CV-16-766](#). Joseph Berry v. Dana Berry, from Pulaski County Circuit Court, Fifteenth Division. Affirmed. Gruber, C.J., and Glover, J., agree.

DAVID M. GLOVER, JUDGE:

[CR-16-723](#). Aaron Lovelace v. State of Arkansas, from Jefferson County Circuit Court. Affirmed; remanded with instructions to correct the sentencing order. Gruber, C.J., and Klappenbach, J., agree.

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DAVID M. GLOVER, JUDGE: (Continued)

[CV-16-181](#). Alice M. Johnson v. Blytheville School District, By Its Board of Directors, Tommy Bennett, Jr.; Lori Hixson; Billy Fair; Gene Henton; Carlony Lewis; Tracey Ritchey; Barbara Wells; and Tobey Johnson, Individually, and in Their Official Capacities, and Sandy Hughey, Assistant Superintendent; Letroy Gathen, Executive Director of Support Services; and Richard Atwill, Superintendent, Individually, and in Their Official Capacities, from Mississippi County Circuit Court, Chickasawba District. Affirmed. Gruber, C.J., and Klappenbach, J., agree.

[CV-16-652](#). Commercial Fitness Concepts, LLC v. WGL, LLC, from Benton County Circuit Court. Affirmed in part; reversed and remanded in part. Gruber, C.J., and Klappenbach, J., agree.

PHILLIP T. WHITEAKER, JUDGE:

[CV-16-287](#). Victor Williams, M.D. v. Bobby Shackelford, from Pulaski County Circuit Court, Second Division. Affirmed in part; reversed in part. Vaught and Murphy, JJ., agree.

LARRY D. VAUGHT, JUDGE:

[CR-16-522](#). Alexander Pokatilov v. State of Arkansas, from Lonoke County Circuit Court. Affirmed. Gruber, C.J., and Gladwin, Harrison, Whiteaker, and Brown, JJ., agree. Virden, Klappenbach, and Hixson, JJ., dissent.

[CR-16-932](#). William Roy Tubbs v. State of Arkansas, from Crawford County Circuit Court. Dismissed. Whiteaker and Murphy, JJ., agree.

[CV-16-534](#). Larry DeWayne Heinrich and Seth Heinrich v. Allison Anders, from Jefferson County Circuit Court. Remanded to supplement the record and addendum; rebriefing ordered. Whiteaker and Murphy, JJ., agree.

[CV-16-960](#). Ricky Howell and Susan Howell v. Arkansas Department of Human Services and Minor Children, from Washington County Circuit Court. Affirmed. Abramson, Virden, and Gladwin, JJ., agree. Whiteaker and Murphy, JJ., dissent.

KENNETH S. HIXSON, JUDGE:

[CV-16-664](#). Michael Douglas v. Shelby Taylor Trucking, Inc., from Grant County Circuit Court. Reversed. Harrison and Brown, JJ., agree.

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MIKE MURPHY, JUDGE:

[CR-16-605](#). Alex Lamar Wade v. State of Arkansas, from Garland County Circuit Court. Affirmed. Whiteaker and Vaught, JJ., agree.

WAYMOND M. BROWN, JUDGE:

[CR-16-826](#). Aronde Keywon Thompson v. State of Arkansas, from Pulaski County Circuit Court, Fifth Division. Reversed and remanded for sentencing consistent with this opinion. Harrison and Hixson, JJ., agree.

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**PER CURIAM ORDERS**

PETITIONS FOR REHEARING: Petitions for rehearing were granted today in the following cases.

[CV-15-918](#). Chelsea S. Harley v. Wyndham S. Dempster, Sr., from Pulaski County Circuit Court, Fourteenth Division. See **substituted opinions** issued this date.

[CV-16-40](#). Kristopher Almeida v. Metal Studs, Inc. d/b/a Drywall Crews, Inc., from Benton County Circuit Court. See **substituted opinions** issued this date.

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

CV-16-385. William Campbell Ash v. First National Bank of Eastern Arkansas, from St. Francis County Circuit Court.

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CR-16-224. Eric Lenderman v. State of Arkansas, from Greene County Circuit Court. Appellant's motion for belated substituted brief is granted.

CR-16-740. Justin Cartwright v. State of Arkansas, from Jefferson County Circuit Court. Motion of Gary W. Potts for costs and attorney's fees is granted. Allowed \$1,800.00.

CR-16-995. Andrew Lee Wiseman v. State of Arkansas, from Hempstead County Circuit Court. Appellant's motion to file belated brief is granted.

CR-16-1085. J.A. v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Appellant's motion for remand to settle the record and stay briefing schedule is granted.

CV-16-608. A.E.R.T., Inc., and National Union Fire Insurance v. Maria Estrada, from the Arkansas Workers' Compensation Commission. Appellee's motion for an award of attorney's fees is granted.

CV-16-935. Rhonda Hayman v. James R. Huett, from Conway County Circuit Court. Appellee's motion to dismiss appeal is granted. Gruber, C.J., not participating.

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**PER CURIAM ORDERS**

CV-16-1068. Michael Joseph Toska v. Lisa Portwood, Shane Portwood, and Minor Children, from Hot Spring County Circuit Court. Appellees' motion to dismiss appeal is granted.

CV-16-1144. Rebecca Stricklin v. Arkansas Department of Human Services and Minor Child, from Pulaski County Circuit Court, Eleventh Division. Appellant's motion to supplement the record and to stay brief time is moot. Gruber, C.J., not participating.

CV-16-1144. Rebecca Stricklin v. Arkansas Department of Human Services and Minor Child, from Pulaski County Circuit Court, Eleventh Division. Appellant's amended motion to supplement the record and to stay brief time is granted. Gruber, C.J., not participating.

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**MOTIONS SUBMITTED**

PETITIONS FOR REHEARING:

CV-16-258. The Academy, Inc. d/b/a Haas Hall Academy, and Martin Schoppmeyer, Jr. v. Paradigm Building, LLC, from Washington County Circuit Court.

E-16-433. Lateshia Patillo v. Director et al., from the Arkansas Board of Review.

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CR-16-516. Gregory Wayne Finfrock v. State of Arkansas, from Washington County Circuit Court. Motion of Gregg A. Knutson for attorney's fees.

CR-16-718. Deion Johnson v. State of Arkansas, from Garland County Circuit Court. Motion of Grace Casteel for award of attorney's fees.

CR-16-735. Lawrence Handy v. State of Arkansas, from Crittenden County Circuit Court. Motion of Tyler Ginn for attorney's fees.

CR-16-768. Kevin Spencer Owens, Sr. v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Motion of Elizabeth Danielson for attorney's fees.

CR-17-39. Korey Duane Rabion v. State of Arkansas, from Dallas County Circuit Court. Motion of Terrence Cain to appear as an additional attorney for the appellant.

CR-17-115. Willie Lee Doby, Jr. v. State of Arkansas, from St. Francis County Circuit Court. Appellant's motion to substitute counsel on appeal and for appointment of counsel.

CV-16-900. Matthew M. Henry v. Sarah L. Henry, from Pulaski County Circuit Court, Third Division. Appellee's renewed motion to dismiss appeal.

CV-16-917. Tami Thomas Darr, as Executrix of the Estate of Stephen Michael Herman, Deceased v. Francis Jean Billeaudeau, from Pulaski County Circuit Court, Fifteenth Division. Joint motion and stipulation to correct the record, or in the alternative, petition for certiorari to complete the record.

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**MOTIONS SUBMITTED**

CV-16-1041. Vera Lee Angel Trust, Johnny Angel, and Paula Napper v. Jim O'Bryant and Kay O'Byrant Joint Revocable Trust, John W. Whittaker, Susan C. Whittaker, John Stansel Harvey, Lisa Harvey, Ernest Bernard McCool Trust, Gregory D. Hawkins, Sharon L. Hawkins, Jimmie Earl O'Bryant, Barbara O'Bryant, Jeanne M. McFarlin Living Trust, Glen Dale Perciful, Teresa Perciful, and Robert Louis Gladfelter Revocable Trust, from Garland County Circuit Court. Appellants' motion to supplement the record and motion for extension of time to file brief.



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**CASES SUBMITTED**

CV-15-380. Derek Scott Hagar, Successor Administrator of the Estate of Darren Scott Hagar, Deceased, and on Behalf of the Wrongful-Death Beneficiaries of Darren Scott Hagar v. Robert T. Shull, M.D., from Crittenden County Circuit Court. Orally argued.

CR-16-533. Keenan Lamonte Lewis v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division.

CR-16-617. Arthur Simon, Jr. v. State of Arkansas, from Crittenden County Circuit Court.

CR-16-620. Dameion Williams v. State of Arkansas, from Pope County Circuit Court.

CR-16-715. Barry Paul Andruszczak v. State of Arkansas, from Little River County Circuit Court.

CR-16-889. Linda Nell Webb v. State of Arkansas, from Jefferson County Circuit Court.

CR-16-950. Keith D. Shelton v. State of Arkansas, from Jefferson County Circuit Court.

CV-15-898. Clyde N. Booth and Frank W. Booth v. Candice A. Franks, Bank Commissioner of the State of Arkansas, from Sebastian County Circuit Court, Fort Smith District.

CV-16-189. June Bradshaw and Joey McCutchen v. Fort Smith School District and Fort Smith Public Schools Board of Education, from Sebastian County Circuit Court, Fort Smith District.

CV-16-227. Agility Financial Credit Union v. Gayla Largent and Western Arkansas Title Services, LLC, from Sebastian County Circuit Court, Fort Smith District.

CV-16-676. Deran Ford, as Administrator of the Estate of Herman P. Ford, Deceased, and as Next Friend on Behalf of I.F., a Minor v. Natasa Milojkovic, M.D.; Angela Pennisi, M.D.; Matthew Steliga, M.D.; David Rutlen, M.D.; Hakan Paydak, M.D.; Thaddeus Bartter, M.D.; Teka Bartter, A.P.N.; and Kyle Kalkwarf, M.D., from Pulaski County Circuit Court, Sixth Division.

CV-16-845. Kim Hall v. Prescott School District, from Nevada County Circuit Court.

CV-16-862. Frederick S. "Rick" Spencer v. Air Evac, Inc. a/k/a Air Evac Lifeteam, from Baxter County Circuit Court.

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**CASES SUBMITTED**

CV-16-864. Bobby H. Weatherford, Rebecca S. Downing, and Terry K. Weatherford v. Arkansas Reclamation Company, LLC; Kenneth H. Sanson Revocable Trust; and Peggy J. Sanson Revocable Trust, from White County Circuit Court.

CV-16-897. Nathan Cooper v. Shannon Kalkwarf (f/k/a Cooper), from Pulaski County Circuit Court, Fourteenth Division.

CV-16-976. Samantha Nicole Ford, Anthony P. Guerra, and Christopher D. Ford v. Arkansas Department of Human Services and Minor Children, from Pulaski County Circuit Court, Eleventh Division.

CV-16-1063. Crystal Butler v. Arkansas Department of Human Services and Minor Children, from Union County Circuit Court.

CV-16-1095. Gregory Etzkorn v. Arkansas Department of Human Services and Minor Children, from Logan County Circuit Court, Northern District.