

**ARKANSAS COURT OF APPEALS**

DIVISION II  
No. CA 10-277

DEBRA FLOERCHINGER  
APPELLANT

V.

UNIVERSITY OF ARKANSAS FOR  
MEDICAL SCIENCES and PUBLIC  
EMPLOYEE CLAIMS DIVISION  
APPELLEES

**Opinion Delivered** February 16, 2011

APPEAL FROM THE ARKANSAS  
WORKERS' COMPENSATION  
COMMISSION  
[NO. F806434]

REBRIEFING ORDERED

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**WAYMOND M. BROWN, Judge**

Debra Floerchinger, pro se, appeals from a Workers' Compensation Commission decision denying her benefits, based upon its finding that she failed to prove that she suffered a compensable injury. Floerchinger argues, among other things, that she suffered a number of medical conditions as a result of her workplace environment. We cannot reach the merits of her claim at this time because she has submitted a brief that violates the Rules of the Supreme Court and Court of Appeals. We have no choice but to order rebriefing.

Violations of our rules can be found in both Floerchinger's abstract and her addendum. Our abstracting rules provide, in relevant part:

(5) Abstract. The appellant shall create an abstract of the material parts of all the transcripts (stenographically reported material) in the record. Information in a transcript is material if the information is essential for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal.

(A) Contents. All material information recorded in a transcript (stenographically reported material) must be abstracted. . . .

(B) Form. The abstract shall be an impartial condensation, without comment or emphasis, of the transcript (stenographically reported material). The abstract must not reproduce the transcript verbatim. No more than one page of a transcript shall be abstracted without giving a record page reference. In abstracting testimony, the first person (“I”) rather than the third person (“He or She”) shall be used. The question-and-answer format shall not be used. In the extraordinary situations where a short exchange cannot be converted to a first-person narrative without losing important meaning, however, the abstract may include brief quotations from the transcript.<sup>1</sup>

Floerchinger’s abstract consists of twenty-seven numbered paragraphs, most with a heading describing the testimony and an “abstract” of the testimony relevant to that heading. This is contrary to the instruction that the abstract be “an impartial condensation, *without comment or emphasis*, of the transcript.” Further, it is evident that Floerchinger has not abstracted all material portions of the hearing before the ALJ. Rather, she has identified those portions most helpful to her case and displayed them in a light most favorable to her position. There was a substantial amount of evidence regarding preexisting conditions, yet most of this evidence is absent from the abstract. The substantial-evidence standard of review in workers’ compensation cases requires this court to affirm if the Commission’s decision displays a substantial basis for the denial of relief.<sup>2</sup> And we cannot review this case without a brief that outlines all of the evidence considered by the Commission, including that evidence adverse to Floerchinger.

In a similar vein, Floerchinger’s addendum is also deficient. An addendum should contain

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<sup>1</sup> Ark. Sup. Ct. R. 4-2(a)(5).

<sup>2</sup> *Neal v. Sparks Reg’l Med. Ctr.*, 104 Ark. App. 97, 289 S.W.3d 163 (2008).

all documents “that are essential for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal.”<sup>3</sup> Like the addendum, this may necessarily include documents adverse to the appellant’s case. Here, both Floerchinger and the Public Employee Claims Division submitted medical records to support their respective positions. But the only medical records in Floerchinger’s addendum were those presented by Floerchinger. She omitted any medical records presented by the Division, some of which were relevant in providing an accurate view of her medical history. We must be able to review these records, as they may provide support for the Commission’s decision.

We recognize that Floerchinger is representing herself and that appellate practice can frustrate even experienced attorneys. Nonetheless, Arkansas appellate courts have always held pro se litigants to the same standards as licensed attorneys with respect to complying with the rules.<sup>4</sup> We cannot relax our rules, even when one of the parties is particularly sympathetic. Following our supreme court, we order rebriefing when deficiencies are present.<sup>5</sup> We do not do this for the sake of placing barriers to the appellate process. Rather, as our supreme court explained:

While it may cause additional delay and expense to the appellant, this court does not order rebriefing either thoughtlessly or needlessly. To the contrary, we do so only

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<sup>3</sup> Ark. Sup. Ct. R. 4-2(a)(8).

<sup>4</sup> See *Hooker v. Farm Plan Corp.*, 331 Ark. 418, 962 S.W.2d 353 (1998); *Jewell v. Ark. State Bd. of Dental Exm’rs*, 324 Ark. 463, 921 S.W.2d 950 (1996); *Fruit v. Lockhart*, 304 Ark. 457, 802 S.W.2d 930 (1991).

<sup>5</sup> See, e.g., *Ridenoure v. Ball*, 2010 Ark. App. 572.

after considered thought, analysis, and examination of both the briefs and record on appeal. We do so, not to waste the time of counsel or the money of litigants, but to ensure that we can achieve the utmost of judicial economy and efficiency in deciding the appeals and, more importantly, to ensure that every litigant before this court receives the justice he or she seeks and deserves. For that reason, this court, as well as the court of appeals, should, and must, be consistent in our application of our rules to *every case and every litigant*, and both courts must enforce those rules in a consistent fashion to achieve the order and predictability that the appellate process requires.<sup>6</sup>

To this end, we order Floerchinger to file a substituted brief that complies with our rules within fifteen days from the date of entry of this opinion.<sup>7</sup> Before filing the substituted brief, we encourage her to review the rules and to ensure that no other deficiencies are present. She can also view a model brief at <http://courts.arkansas.gov/aoc/forms.cfm>. After service of the substituted brief, the Public Claims Division shall have an opportunity to revise or supplement its brief in the time prescribed by the court. If Floerchinger fails to file a compliant brief within the prescribed time, we may affirm the Commission's decision for noncompliance with our rules.<sup>8</sup>

Rebriefing ordered.

HART and WYNNE, JJ., agree.

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<sup>6</sup> *Roberts v. Roberts*, 2009 Ark. 306, at 4 n.2, 319 S.W.3d 234, 236 n.2 (2009).

<sup>7</sup> Ark. Sup. Ct. R. 4-2(b)(3), (c)(2) (allowing parties who file a deficient brief an opportunity to file a conforming brief).

<sup>8</sup> *See* Ark. Sup. Ct. R. 4-2(b)(3).