

ARKANSAS COURT OF APPEALS

DIVISION III

No. CA10-841

JACKIE ROBBINS

APPELLANT

V.

DEBBIE ROBBINS

APPELLEE

Opinion Delivered March 2, 2011

APPEAL FROM THE GARLAND
COUNTY CIRCUIT COURT
[No. DR-05-614-1]

HONORABLE JOHN HOMER
WRIGHT, JUDGE

REMANDED TO SETTLE RECORD;
REBRIEFING ORDERED

LARRY D. VAUGHT, Chief Judge

In this one-brief case, appellant Jackie Robbins claims that the trial court erred in its grant of attorney's fees to appellee Debbie Robbins. Specifically, appellant argues that because appellee's fee motion was untimely, "the trial court did not have the statutory authority to grant such a defective motion."

Arkansas Rule of Civil Procedure 54(e) governs the procedures for claiming attorney's fees. Ark. R. Civ. P. 54(e) (2010). The rule dictates that a party has fourteen days after the entry of judgment to file a claim for attorney's fees. *Seidenstricker Farms v. Doss*, 374 Ark. 123, 125, 286 S.W.3d 142, 143 (2008). Appellant claims that appellee's motion was not filed until fifteen days after the final order was entered. Unfortunately, he failed to include the

underlying order, allegedly entered on May 11, 2010, in either the record or addendum on appeal. As such, we are unable to have a meaningful review of the timeliness, or lack thereof, of the resulting fee motion.

The procedure to be followed when an appellant has submitted an insufficient abstract or addendum is set forth in Ark. Sup. Ct. R. 4-2(b)(3) (2010):

Whether or not the appellee has called attention to deficiencies in the appellant's abstract or Addendum, the Court may address the question at any time. If the Court finds the abstract or Addendum to be deficient such that the Court cannot reach the merits of the case, or such as to cause an unreasonable or unjust delay in the disposition of the appeal, the Court will notify the appellant that he or she will be afforded an opportunity to cure any deficiencies, and has fifteen days within which to file a substituted abstract, Addendum, and brief, at his or her own expense, to conform to Rule 4-2(a)(5) and (8). Mere modifications of the original brief by the appellant, as by interlineation, will not be accepted by the Clerk. Upon the filing of such a substituted brief by the appellant, the appellee will be afforded an opportunity to revise or supplement the brief, at the expense of the appellant or the appellant's counsel, as the Court may direct. If after the opportunity to cure the deficiencies, the appellant fails to file a complying abstract, Addendum and brief within the prescribed time, the judgment or decree may be affirmed for noncompliance with the Rule.

Arkansas Rule of Appellate Procedure—Civil 6(c) (2010) provides that this court can *sua sponte* direct a party to supply omitted material by filing a certified, supplemental record. *Gilbert v. Moore*, 362 Ark. 657, 210 S.W.3d 125 (2005).

Accordingly, under Ark. Sup. Ct. R. 4-2 and Ark. R. App. P.—Civ. 6(c), we order appellant to file a substituted abstract, addendum, and brief, and to file a certified, supplemental record that includes the omitted document within fifteen days from the date of entry of this order. If appellant fails to do so within the prescribed time, the judgment appealed from may be affirmed for noncompliance with Rule 4-2. After service of the

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substituted abstract, addendum, and brief, appellee shall have an opportunity to supply a responsive brief in the time prescribed by the court.

Remanded to settle and supplement the record and for rebriefing.

GLADWIN and MARTIN, JJ., agree.