

ARKANSAS COURT OF APPEALS

DIVISION III
No. CA 09-456

HOUSEHOLD RECOVERY SERVICES
CENTER

APPELLANT

V.

CASSANDRA VEGA

APPELLEE

Opinion Delivered January 20, 2010

APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT
[NO. CIV-07-467]

HONORABLE J. MICHAEL
FITZHUGH, JUDGE

REBRIEFING ORDERED

COURTNEY HUDSON HENRY, Judge

Appellant Household Recovery Services Center appeals an order of the Sebastian County Circuit Court awarding it a deficiency judgment against appellee Cassandra Vega. For reversal, appellant contends that the trial court erred in denying its motion for a new trial because the amount of the judgment does not conform to the proof presented at trial. We must order rebriefing because appellant's abstract is deficient.

Rule 4-2(a)(5) of the Arkansas Rules of the Supreme Court and Court of Appeals provides in pertinent part:

Abstract. The appellant's abstract or abridgement of the transcript should consist of an impartial condensation, without comment or emphasis, of only such material parts of the testimony of the witnesses and colloquies between the court and counsel and other parties as are necessary to an understanding of all questions presented to the Court for decision.

If we find that an abstract is so deficient that we cannot reach the merits of the case, we afford the appellant an opportunity to cure the deficiencies by filing a substituted brief that conforms to the requirements of the abstracting rule. Ark. Sup. Ct. R. 4-2(b)(3).

In this case, appellant contends that the trial court's decision does not conform to the evidence presented at trial. However, appellant has failed to abstract any of the trial testimony. Thus, we consider appellant's abstract to be deficient, and we order rebriefing. Appellant's counsel is directed to file a substituted brief to include an abstract of the trial testimony. The abstract should also disclose which exhibits were introduced into evidence and whether the exhibits were introduced with or without objection. The exhibits must also appear in the addendum in accordance with Rule 4-2(a)(5). Appellant's counsel has fifteen days to file the substituted brief.¹ After service of the substituted brief, appellee shall have an opportunity to file a responsive brief in the time prescribed by our clerk, or appellee may rely on the brief previously filed in this appeal.

Rebriefing ordered.

HART and KINARD, JJ., agree.

¹ We direct counsel's attention to the per curiam *In re: Arkansas Supreme Court and Court of Appeals Rules 4-1, 4-2, 4-3, 4-4, 4-7, and 6-9*, 2009 Ark. 544 (per curiam) where the supreme court made sweeping changes to Rule 4-2 that are applicable to briefs filed after January 1, 2010.