

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CA 09-633

DAYLAN HUNT and JAMES L. HUNT
and JERRI N. HUNT, Co-Trustees of the
HUNT FAMILY TRUST

APPELLANTS

V.

ENTERGY ARKANSAS, INC.

APPELLEE

Opinion Delivered April 21, 2010

APPEAL FROM THE GARLAND
COUNTY CIRCUIT COURT
[NO. CV2007-144 II]

HONORABLE VICKI S. COOK,
JUDGE

REBRIEFING ORDERED

WAYMOND M. BROWN, Judge

This is a dispute between the Hunt family and Entergy Arkansas, Inc., over property located in Garland County. After the Hunt family saw Entergy employees surveying the disputed property, the Hunts filed a petition to quiet title in circuit court. Their petition was dismissed by way of Entergy's motion for summary judgment. The Hunts assert that there remains a genuine issue of material fact on whether they had adversely possessed part of Entergy's property. But their brief does not contain an abstract of the deposition testimony submitted in support of and in opposition to Entergy's motion for summary judgment. For this reason, we order rebriefing.

The Hunts, either through their trust or individually, claim ownership of and have paid taxes on several lots in the Lake Catherine Lake View Estates subdivision. Two exhibits

presented to the circuit court show these lots crossing the 324 contour line, but other deeds show that the land below the line belongs to Entergy. The Hunts filed a petition to quiet title to the lots, including the portions below the 324 contour line. On September 30, 2008, Entergy filed a summary-judgment motion, alleging that the Hunts did not have record title to any property below the 324 contour line and that they had not adversely possessed any property below that line. The circuit court granted Entergy's motion for summary judgment and denied the Hunts' subsequent request to set aside that order.

The Hunts now appeal from the grant of summary judgment. But they have failed to abstract the deposition testimony relied upon in support of and in opposition to the motion. The briefs in this case were filed before January 1, 2010, the effective date *In re Arkansas Supreme Court and Court of Appeals Rules 4-1, 4-2, 4-3, 4-4, 4-7, and 6-9*.¹ Nonetheless, both the former and the current rules require an abstract of deposition testimony.² When parties rely on depositions to support their respective positions, an abstract is essential to the understanding of this case.³ And the failure to abstract that testimony is a flagrant violation of our rules.

We order the Hunts to file a substituted brief that complies with our rules.⁴ The

¹ 2009 Ark. 534 (per curiam).

² See Ark. Sup. Ct. R. 4-2(a)(5) (2009); Ark. Sup. Ct. R. 4-2(a)(5) (2010).

³ *Gentry v. Robinson*, 2009 Ark. 345, 322 S.W.3d 498.

⁴ Ark. Sup. Ct. R. 4-2(b)(3) (2009) (allowing parties who file a deficient brief an opportunity to file a conforming brief).

Cite as 2010 Ark. App. 351

substituted brief, abstract, and addendum shall be due fifteen days from the date of entry of this order. We encourage appellate counsel to review the supreme court's 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* to assure that the substituted brief complies with the new rules and to ensure that no additional deficiencies are present. After service of the substituted abstract, brief, and addendum, Entergy shall have an opportunity to revise or supplement its brief in the time prescribed by the court. If the Hunts fail to file a compliant brief within the prescribed time, the grant of summary judgment may be affirmed for noncompliance with our rules.

Rebriefing ordered.

GLADWIN and HENRY, JJ., agree.