

ARKANSAS COURT OF APPEALS

DIVISION
No. CA09-776

DIANA LANCASTER

APPELLANT

V.

STEVE REIGER, JASON RIDDLE, RED
ROBIN INTERNATIONAL, INC.,
MATTHEW NATIVIDAD, AND
KAYLA NEITZEL

APPELLEES

Opinion Delivered May 19, 2010

APPEAL FROM THE BENTON
COUNTY CIRCUIT COURT
[NO. CV 2008-39-5]

HONORABLE XOLLIE DUNCAN,
JUDGE

REBRIEFING ORDERED

DAVID M. GLOVER, Judge

Diana Lancaster sued her employer, appellee Red Robin International, Inc., appellee Steve Reiger (Red Robin’s general manager), appellee Jason Riddle (Red Robin’s service manager), appellee Matthew Natividad (a co-worker), and Kayla Neitzel (a co-worker) for slander. The circuit court granted summary judgment to all appellees. It also imposed sanctions under Arkansas Rule of Civil Procedure 11 against appellant in favor of Natividad and Neitzel, and ordered appellant’s attorney, Harry McDermott, to pay appellees \$1000 in attorney’s fees because of the way that he handled a discovery dispute. Appellant argues that the trial court erred in granting summary judgment to appellees, and that it abused its discretion in striking two of her amended complaints, in awarding attorney’s fees to Natividad and Neitzel, in ordering McDermott to pay appellees \$1000 in attorney’s fees, and in finding

that Red Robin's responses to discovery requests were appropriate. We must order rebriefing because appellant's abstract is deficient.

The briefs were filed before January 1, 2010, the effective date of amendments to Arkansas Supreme Court and Court of Appeals Rules 4-1, 4-2, 4-3, 4-4, 4-7, and 6-9. Thus, the 2009 version of Arkansas Supreme Court Rule 4-2(a)(5) applies to this appeal. It provides that material portions of depositions must be abstracted in the same manner as witness testimony. When parties rely on depositions to support their positions, an abstract is essential to our understanding of the case. *Id.*; *Gentry v. Robinson*, 2009 Ark. 345, 322 S.W.3d 498. Although appellant has abstracted the arguments of counsel at several hearings, she has not abstracted any of the numerous excerpts from depositions filed in support of and in opposition to the motions for summary judgment contained within the extensive addendum. Without the inclusion of the depositions in the abstract, we cannot determine whether the circuit court erred in granting summary judgment to appellees.

Arkansas Supreme Court Rule 4-2(b)(3) (2009) allows parties who file a deficient brief an opportunity to file a conforming brief. We therefore order appellant to file, within fifteen days from the date of entry of this order, a substituted brief, abstract, and addendum that complies with the 2009 version of Rule 4-2. The substituted brief shall include an abstract of all portions of depositions that are necessary to an understanding of all questions presented to us for decision. *Gentry, supra*. If appellant fails to do so within the prescribed time, the judgments appealed from may be affirmed for noncompliance with Rule 4-2. After service

Cite as 2010 Ark. App. 437

of the substituted abstract, brief, and addendum, appellees shall have an opportunity to file a responsive brief in the time prescribed by this court, or they may rely on the brief previously filed in this appeal.

Rebriefing ordered.

PITTMAN and GLADWIN, JJ., agree.