

Cite as 2018 Ark. App. 398

ARKANSAS COURT OF APPEALS

DIVISION III

No. CV-17-776

BRENDA EVANS

APPELLANT

V.

THE ESTATE OF GEORGE
HENRY FRITSCHÉ ET AL.

APPELLEES

Opinion Delivered: September 5, 2018

APPEAL FROM THE LOGAN
COUNTY CIRCUIT COURT,
SOUTHERN DISTRICT
[NO. 42BCV-13-37]

HONORABLE DAVID H.
MCCORMICK, JUDGE

REBRIEFING ORDERED

WAYMOND M. BROWN, Judge

This appeal arises out of a dispute over the ownership of Bennett Laundry. For several years, Brenda Evans made payments toward the purchase of Bennett Laundry to the Estate of George Fritsche and its predecessors in interest. An overarching question in this case is whether Evans was making payments pursuant to an oral contract she had to purchase Bennett Laundry or whether she was making payments on behalf of Northwest Amusement Company, Inc., a corporation owned by her sons, which previously entered into a contract to buy Bennett Laundry. Following a bench trial, the circuit court determined that Evans did not have a contract to purchase Bennett Laundry and that the payments she made were on behalf of Northwest Amusement. Evans appeals to our court, but we do not reach the merits of her appeal due to several briefing deficiencies that must be resolved.

First, we direct Evans to amend her abstract due to her frequent use of the question-and-answer format. Arkansas Supreme Court Rule 4-2(a)(5)(B)¹ clearly mandates that the question-and-answer format shall not be used in an abstract, unless in extraordinary instances where the exchange simply cannot be condensed without losing something important. In this appeal, seventy-eight pages of the 216-page abstract have testimony in the question-and-answer format. Furthermore, we observe that an additional thirty-five pages of the abstract include unnecessary colloquy. Evans has deviated from the requirements of our abstracting rules, and the deficiencies must be corrected.²

Evans is also directed to modify her statement of the case so that it will comply with our rules. Arkansas Supreme Court Rule 4-2(a)(6) requires that the appellant's brief contain a concise statement of the case without argument and that the statement *must include* supporting page references to the abstract or addendum or both.³ Evans's statement of the case fails to offer any citations to the abstract or addendum, and this too must be cured.

Finally, we instruct Evans to review and correct the deficient citations to the abstract in her argument. Arkansas Supreme Court Rule 4-2(a)(7) requires that "reference in the argument portion of the parties' briefs to material found in the abstract and addendum shall be followed by a reference to the page number of the abstract or addendum at which such material may be found." Often, Evans's references to the abstract in her argument do not

¹(2017).

²In our review of the abstract in this appeal, we also noted that the last two pages of the abstract are both numbered 211 when they should be numbered 215 and 216 respectively.

³(Emphasis added.)

correspond to the correct pages of the abstract. This is in contravention of our rules and must be addressed.

Because of Evans's failure to comply with our abstracting and addendum rules, we order her to file a substituted brief curing the deficiencies within fifteen days from the date of entry of this order pursuant to Arkansas Supreme Court Rule 4-2(b)(3). The materials listed herein are not intended as an exhaustive list of deficiencies. We encourage Evans to review our rules to ensure that no other deficiencies are present.

Rebriefing ordered.

GLADWIN and KLAPPENBACH, JJ., agree.

Weimar Law Office, by: *DeeAnna Weimar*, for appellant.

Brian K. Mueller, for the Fritsche appellees.

Danielson Law Firm, PLLC, by: *Erik P. Danielson*, for the Estate of Luther O. Evans.