

Cite as 2019 Ark. App. 288

**ARKANSAS COURT OF APPEALS**

DIVISION III

No. CV-17-619

DEE BLAKELY

APPELLANT

**Opinion Delivered:** May 22, 2019

V.

ARKANSAS CHILDREN'S HOSPITAL;  
PULASKI COUNTY, ARKANSAS;  
AND JANE DUKE

APPELLEES

APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT, SIXTH  
DIVISION  
[NO. 60CV-15-3840]

HONORABLE TIMOTHY DAVIS  
FOX, JUDGE

REBRIEFING ORDERED

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**N. MARK KLAPPENBACH, Judge**

Dee Blakely appeals from a judgment in favor of Pulaski County, Arkansas (the County), following a bench trial of an illegal-exaction claim concerning a hospital maintenance tax levied and collected for Arkansas Children's Hospital (ACH) under amendment 32 to the Arkansas Constitution. She also appeals the dismissal of her claims under the Freedom of Information Act against ACH and ACH's outside counsel, Jane Duke. We do not reach the merits of the appeal; instead, we order rebriefing because of problems with Blakely's brief and addendum.

After reading Blakely's argument, we are struck by the fact that many of the abstract references are incorrect; sometimes they are off by a page or two while others are off by many pages. "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.” Ark. Sup. Ct. R. 4-2(a)(7); *see also Holloway v. State*, 361 Ark. 238, 241, 205 S.W.3d 797, 799 (2005). We have previously ordered rebriefing when our efforts to examine relevant parts of the testimony and evidence were frustrated by the lack of proper references. *See King v. Baxter Cty. Reg’l Hosp.*, 79 Ark. App. 97, 86 S.W.3d 13 (2002). We find that rebriefing is necessary here. Upon rebriefing, Blakely must provide accurate citations to the abstract.

We further note that Blakely refers to several exhibits in her argument. However, the exhibits are not contained in the addendum. For example, Blakely cites to a stipulation between her and the County as being contained on pages 756 and 757 of her addendum. The problem is that her addendum only goes to page 262. There are other references to pages of the addendum that do not exist. There are also references to exhibits by citation to the record only. Exhibits necessary to the determination of the issues must be included in the addendum. *See Ark. Sup. Ct. R. 4-2(a)(8); see also Holloway, supra*. Although the County has filed a supplemental addendum containing the stipulation, if more documents are necessary, it is Blakely’s responsibility as the appellant to provide an abstract and addendum sufficient to conduct a meaningful review. *Metro Empire Land Ass’n, LLC v. Arlands, LLC*, 2012 Ark. App. 132.

We order Blakely to cure the deficiencies by filing a substituted brief within fifteen days from the date of this opinion. Ark. Sup. Ct. R. 4-2(c)(2). We encourage appellate counsel to review Rule 4-2 to ensure that the substituted brief complies with the rules and that no additional deficiencies are present. In the event Blakely fails to file a compliant brief

within the requisite time period, the judgment may be affirmed for noncompliance with the rule. *Id.*

Rebriefing ordered.

WHITEAKER and VAUGHT, JJ., agree.

*Sutter & Gillham, P.L.L.C.*, by: *Luther Oneal Sutter* and *Lucien Gillham*, for appellant.

*Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.*, by: *Megan D. Hargraves* and *David F. Koehler*, for appellee Arkansas Children's Hospital.

*Adam B. Fogleman* and *William A. Gruber*, Pulaski County Attorney's Office, for appellee Pulaski County, Arkansas.

*Barber Law Firm PLLC*, by: *Robert L. Henry III*, for appellee Jane Duke.