

ARKANSAS COURT OF APPEALS

PROCEEDINGS OF JANUARY 17, 2024

BRANDON J. HARRISON, CHIEF JUDGE:

[CR-23-119](#). James Earl Harris v. State of Arkansas, from White County Circuit Court. Rebriefing ordered; motion to withdraw denied. Gladwin and Hixson, JJ., agree.

RAYMOND R. ABRAMSON, JUDGE:

[CR-23-323](#). Toby Yancy v. State of Arkansas, from Franklin County Circuit Court, Northern District. Remanded to settle and supplement the record; rebriefing ordered; motion to withdraw denied without prejudice. Gruber and Thyer, JJ., agree.

[CV-23-338](#). Jennifer Thornton v. Arkansas Department of Human Services and Minor Child, from Garland County Circuit Court. Affirmed; motion to withdraw granted. Gruber and Thyer, JJ., agree.

BART F. VIRDEN, JUDGE:

[CR-23-388](#). Daniel Hernandez v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Affirmed; motion to withdraw granted. Klappenbach and Wood, JJ., agree.

[CV-23-382](#). Kirstie McCullar and Marsheon Nunn v. Arkansas Department of Human Services and Minor Children, from Poinsett County Circuit Court. Affirmed; motions to be relieved granted. Klappenbach and Wood, JJ., agree.

[CV-23-507](#). Marilee Kirk v. Arkansas Department of Human Services and Minor Children, from Pulaski County Circuit Court, Eighth Division. Affirmed. Klappenbach and Wood, JJ., agree.

ROBERT J. GLADWIN, JUDGE:

[CR-23-180](#). Larra Gabrielleh Compton v. State of Arkansas, from Bradley County Circuit Court. Affirmed; motion to withdraw granted. Harrison, C.J., and Hixson, J., agree.

[CV-23-355](#). Catherine Cody v. Arkansas Department of Human Services and Minor Child, from Miller County Circuit Court. Affirmed; motion to withdraw granted. Harrison, C.J., and Hixson, J., agree.

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N. MARK KLAPPENBACH, JUDGE:

[CR-23-295](#). Kimberlie Tilley v. State of Arkansas, from Craighead County Circuit Court, Western District. Affirmed. Virden and Wood, JJ., agree.

[CR-23-446](#). Lacey Hogue v. State of Arkansas, from Saline County Circuit Court. Rebriefing ordered; motion to be relieved denied. Virden and Wood, JJ., agree.

RITA W. GRUBER, JUDGE:

[CR-23-287](#). Christon Jace Houston v. State of Arkansas, from Saline County Circuit Court. Remanded to settle and supplement the record; rebriefing ordered; motion to withdraw denied without prejudice. Abramson and Thyer, JJ., agree.

[CR-23-288](#). Christon Jace Houston v. State of Arkansas, from Saline County Circuit Court. Remanded to settle and supplement the record; rebriefing ordered; motion to withdraw denied without prejudice. Abramson and Thyer, JJ., agree.

[CV-22-85](#). Angela Wormington (formerly Smith) v. Mark Smith, from Benton County Circuit Court. Affirmed in part; reversed and remanded in part. Abramson and Thyer, JJ., agree.

STEPHANIE POTTER BARRETT, JUDGE:

[CR-23-275](#). Kamen Winston v. State of Arkansas, from Jefferson County Circuit Court. Affirmed; motion to withdraw granted. Murphy and Brown, JJ., agree.

CINDY GRACE THYER, JUDGE:

[CR-23-262](#). Samuel McLeod v. State of Arkansas, from Columbia County Circuit Court. Affirmed; motion to withdraw granted. Abramson and Gruber, JJ., agree.

[CR-23-390](#). Mercedes Cuellar v. State of Arkansas, from Grant County Circuit Court. Affirmed. Abramson and Gruber, JJ., agree.

WENDY SCHOLTENS WOOD, JUDGE:

[CR-23-235](#). Arlene Edwards v. State of Arkansas, from Saline County Circuit Court. Rebriefing ordered; motion to withdraw denied. Virden and Klappenbach, JJ., agree.

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WENDY SCHOLTENS WOOD, JUDGE: (continued)

[CR-23-492](#). Raymond Page v. State of Arkansas, from Saline County Circuit Court. Rebriefing ordered; motion to withdraw denied. Virden and Klappenbach, JJ., agree.

KENNETH S. HIXSON, JUDGE:

[CR-22-564](#). Seth Fontenot v. State of Arkansas, from Lonoke County Circuit Court. Affirmed; motion to withdraw granted. Harrison, C.J., and Gladwin, J., agree.

[CR-23-254](#). Rocky McGahey v. State of Arkansas, from Logan County Circuit Court, Northern District. Affirmed. Harrison, C.J., and Gladwin, J., agree.

MIKE MURPHY, JUDGE:

[CR-22-614](#). Roy Moore v. State of Arkansas, from Lonoke County Circuit Court. Affirmed. Virden, Gruber, and Brown, JJ., agree. Gladwin and Thyer, JJ., dissent.

[CR-23-266](#). Cecil J. Sixkiller v. State of Arkansas, from Benton County Circuit Court. Affirmed; motion to withdraw granted. Barrett and Brown, JJ., agree.

WAYMOND M. BROWN, JUDGE:

[CR-23-255](#). Jamel Dajuan Gardner v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Affirmed; motion to withdraw granted. Barrett and Murphy, JJ., agree.

[CR-23-329](#). Jason Hicks v. State of Arkansas, from Hot Spring County Circuit Court. Affirmed. Barrett and Murphy, JJ., agree.

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PER CURIAM ORDERS

REHEARINGS DENIED: Petitions for rehearing were denied today in the following cases.

CV-22-86. James Robert Macom, Individually and d/b/a Benson Home Repair and Christy Benson v. Peter P. Di Cresce and Delores Di Cresce, By and Through Their Powers of Attorney, Joy Christie Di Cresce and Juanita Di Cresce, from Sharp County Circuit Court. Abramson, J., not participating.

CV-22-94. Bennie Burks, as Special Administrator of the Estate of Oliver Lee Burks, Deceased v. Hunter L. Brown, M.D.; and Robert T. Emery, M.D., from Independence County Circuit Court. Petition of separate appellee Robert T. Emery, M.D., for rehearing. Gladwin, J., would grant.

CV-22-94. Bennie Burks, as Special Administrator of the Estate of Oliver Lee Burks, Deceased v. Hunter L. Brown, M.D.; and Robert T. Emery, M.D., from Independence County Circuit Court. Petition of separate appellee Hunter L. Brown, M.D., for rehearing. Gladwin, J., would grant.

CV-22-142. Benton County Regional Solid Waste Management v. Waste Management of Arkansas, Inc.; and Eco-Vista LLC, from Washington County Circuit Court. Gladwin and Murphy, JJ., not participating.

CV-22-338. Protech Solutions, Inc. v. Chase Global Services, from Pulaski County Circuit Court, Twelfth Division. Wood and Murphy, JJ., not participating.

CV-23-21. Edward Taylor v. Kalendria Brooks, from Pulaski County Circuit Court, Fourteenth Division. Gruber, J., not participating.

CR-10-206. Timothy Mack Clemmons v. State of Arkansas, from Pulaski County Circuit Court, Fifth Division. Appellant's pro se petition for writ of certiorari and/or second motion to recall mandate is denied.

CR-22-263. Jeremy Durkin v. State of Arkansas, from Crawford County Circuit Court. Motion of F. Parker Jones III for attorney's fees is granted. Allowed \$2,250.

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CR-22-402. Evan Columbus Anderson v. State of Arkansas, from Benton County Circuit Court. Appellant's motion to file supplemental record out of time is granted. Tendered supplemental record filed this date.

CR-22-667. David Wayne Railey v. State of Arkansas, from Nevada County Circuit Court. Motion of Ben Motal for attorney's fees is granted. Allowed \$2,250. Virden, J., not participating.

CR-22-707. Aaron Scott Taylor v. State of Arkansas, from Saline County Circuit Court. Motion of F. Parker Jones III for attorney's fees is granted. Allowed \$2,250. Wood, J., not participating.

CR-22-775. Sean Woodruff v. State of Arkansas, from Arkansas County Circuit Court, Southern District. Motion of Gary W. Potts for costs and attorney fees is granted. Allowed \$2,250.

CR-23-245. Hughey Brooks v. State of Arkansas, from Washington County Circuit Court. Motion of Trent D. Thomas for attorney's fees is denied without prejudice. Virden, J., not participating.

CR-23-435. Durrell Barnum v. State of Arkansas, from Faulkner County Circuit Court. Appellant's pro se motion for leave to file a belated brief from the denial of post conviction relief is granted. Wood, J., would deny. Klappenbach, J., not participating. Tendered appellant's pro se brief filed this date.

CR-23-506. Mitchell Wine v. State of Arkansas, from Saline County Circuit Court. Appellant's pro se motion for leave of court to supplement appellant's brief and to unseal underlying criminal case 63CR-21-700 is denied.

CR-23-563. Willie Munn v. State of Arkansas, from Hempstead County Circuit Court. Petitioner's pro se motion requesting clarification of Arkansas Court of Appeals' denial of motion for belated appeal is denied.

CR-23-609. Minor Child v. State of Arkansas, from White County Circuit Court. Appellee's motion to dismiss or in the alternative, motion for extension of brief time. Appellee's motion to dismiss is passed until the case is submitted. Appellee's brief is due February 16, 2024.

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CR-23-715. Shane Ledford v. State of Arkansas, from Hot Spring County Circuit Court. Appellant's pro se motion for appointment of different attorney and to "look into" the case is denied.

CR-23-715. Shane Ledford v. State of Arkansas, from Hot Spring County Circuit Court. Appellant's pro se motion to retrial is denied.

CR-23-735. Jeremy Latoris Reed v. State of Arkansas, from Mississippi County Circuit Court, Chickasawba District. Appellant's motion for leave to file a belated brief is granted. Thyer, J., not participating. Appellant's brief is due February 16, 2024.

CR-23-760. James Sherwood Edwards v. State of Arkansas, from Ashley County Circuit Court. Appellant's petition for writ of certiorari to complete the record or, in the alternative, motion to remand to settle the record is remanded to settle the record. Klappenbach, J., not participating. Settled electronic record is due February 16, 2024.

CR-23-761. Markelle Davis v. State of Arkansas, from Miller County Circuit Court. Appellant's motion requesting recusal of judge is moot. Virden and Barrett, JJ., not participating.

CR-23-790. Tremain Huggins v. State of Arkansas, from Arkansas County Circuit Court, Northern District. Appellant's pro se motion for extension of time to file brief is granted. Appellant's pro se brief is due February 16, 2024.

CR-23-790. Tremain Huggins v. State of Arkansas, from Arkansas County Circuit Court, Northern District. Appellant's pro se motion for appointment of counsel is denied without prejudice.

CR-23-791. Lorenzo Lamont Allen v. State of Arkansas, from Crittenden County Circuit Court. Motion of S. Butler Bernard, Jr., to withdraw as counsel for the appellant is granted. Thyer, J., not participating. Dusti Standridge is appointed as counsel for the appellant.

CR-23-800. Bradley Uren v. State of Arkansas, from Baxter County Circuit Court. Motion of Tony Pirani to be relieved as attorney for appellant and to stay briefing schedule is granted. Lisa Marie Norris is appointed as counsel for the appellant.

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CR-23-805. Larry Cossey v. State of Arkansas, from Pope County Circuit Court. Joint motion to substitute counsel of record is granted in part and denied in part. Tim Cullen is appointed as counsel for the appellant. Virden and Klappenbach, JJ., not participating.

CR-23-813. Richard O. Newton v. State of Arkansas, from Franklin County Circuit Court, Northern District.¹ Motion of Debra Reece Johnson to substitute counsel is granted. Virden, J., not participating.

CR-23-816. Zereak Oliver v. State of Arkansas, from Pulaski County Circuit Court, Fifth Division. Appellant's motion for belated appeal and/or rule on clerk is granted. Gruber, J., not participating. Record filed in Arkansas Court of Appeals this date as case No. CR-23-816.

CR-23-821. Kenneth Steward v. State of Arkansas, from Benton County Circuit Court. Appellant's petition for writ of certiorari is granted. Writ issued; returnable in thirty days (February 16, 2024).

CR-23-833. James Franklin Nowlin v. State of Arkansas, from Little River County Circuit Court. Appellant's petition for writ of mandamus to supplement record is moot. Barrett, J., not participating.

CR-23-833. James Franklin Nowlin v. State of Arkansas, from Little River County Circuit Court. Appellant's first amended petition for writ of mandamus to supplement record is granted. Barrett, J., not participating. Writ issued; returnable in thirty days (February 16, 2024).

CV-22-779. Michael Allwine and Sophie Allwine v. FCA US, LLC; 4X4 Offroad Outfitters, LLC; JKS Manufacturing, Inc.; Meyer Distributing, Inc.; and Fletcher Automotive No. 1, LLC, d/b/a Frank Fletcher Dodge and Frank Fletcher Dodge-Chrysler-Jeep, from Pulaski County Circuit Court, Sixteenth Division. Motion of Don A. Taylor to withdraw as counsel for Fletcher Automotive No. 1, LLC, d/b/a Frank Fletcher Dodge and Frank Fletcher Dodge-Chrysler-Jeep is granted. Gladwin, J., not participating.

¹Case No. 24CCR-22-2 was filed in Franklin County Circuit Court, Northern District. Case No. 24OCR-22-143 was filed in Franklin County Circuit Court, Southern District. By order entered January 6, 2023, both cases were tried together in the Northern District.

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CV-23-41. Zachary M. Oxley v. Larry Ray Lumpkins, from Lonoke County Circuit Court. Appellant's motion for relief from mandate is denied.

CV-23-328. H. C.; L. S.; R. T.; and T. K. v. James Darrell Nesmith, from Pulaski County Circuit Court, Sixth Division. Motion of Stuart P. Miller for leave to file amicus brief on behalf of Ms. Shirley Suhl is granted. Harrison, C.J., and Gruber, J., would deny. Gladwin, J., not participating.

CV-23-328. H. C.; L. S.; R. T.; and T. K. v. James Darrell Nesmith, from Pulaski County Circuit Court, Sixth Division. Motion of Arkansas Trial Lawyers Association to file brief amicus curiae is granted. Harrison, C.J., would deny. Gladwin, J., not participating.

CV-23-328. H. C.; L. S.; R. T.; and T. K. v. James Darrell Nesmith, from Pulaski County Circuit Court, Sixth Division. Motion of Child USA to file brief amicus curiae is granted. Harrison, C.J., would deny. Gladwin, J., not participating.

CV-23-421. Detric Wilson v. Dexter Payne, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellant's pro se motion for information on appellant case status is noted. This appeal is awaiting submission.

CV-23-469. Cacea Coleman v. PPMG of Texas, LLC, from Pulaski County Circuit Court, Sixth Division. Appellant's pro se motion for reconsideration of writ of certiorari to complete the record or to correct the record is denied. This appeal was dismissed November 15, 2023.

CV-23-694. Jennifer McShane v. Frenchman Woods TVRC TIC LLC, Frenchman Woods TVSJC TIC LLC, and Frenchman Woods OVA TIC LLC d/b/a The Retreat of Maumelle, from Pulaski County Circuit Court, Twelfth Division. Appellees' motion to dismiss appeal is granted. Appeal dismissed.

CV-23-742. Bo Bradley and Carl Baldwin v. Cody Lloyd, from Cross County Circuit Court. Appellant's motion to supplement the record is granted. Harrison, C.J., not participating. Tendered supplemental record filed this date.

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CV-23-749. Michel Hughes v. Benjamin Bright, from Garland County Circuit Court. Appellant's petition for writ of certiorari to complete the record or, in the alternative, motion to supplement the record is granted. Writ issued; returnable in thirty days (February 16, 2024).

CV-23-765. Nationwide Mutual Insurance Company v. N.W.A. Restore-It, Inc., from Benton County Circuit Court. Motion of Michael P. Vanderford for withdrawal of Arthur C. Jefferson as counsel of record is granted.

CV-23-765. Nationwide Mutual Insurance Company v. N.W.A. Restore-It, Inc., from Benton County Circuit Court. Appellant's combined motion to supplement and correct record is granted. Tendered supplemental record filed this date.

CV-23-779. James Scholz and Susanne Scholz v. Esquire Ranches, LLC, from Saline County Circuit Court. Appellants' motion to remand to settle and supplement by certiorari to complete the record is denied. Harrison, C.J., and Gruber, Barrett, Hixson, and Murphy, JJ., would pass the motion until the case is submitted.

CV-23-779. James Scholz and Susanne Scholz v. Esquire Ranches, LLC, from Saline County Circuit Court. Appellee's motion to dismiss appeal is granted. Appeal dismissed. Harrison, C.J., and Gruber, Barrett, Hixson, and Murphy, JJ., would pass the motion until the case is submitted.

CV-23-785. Amber Rice and Kevin Sierzchula v. Arkansas Department of Human Services and Minor Children, from Marion County Circuit Court. Motion of separate appellant Kevin Sierzchula for fourteen-day extension is moot.

CV-23-787. Alyson Rutledge v. Donnie Rutledge, from Washington County Circuit Court. Appellant's motion to stay order pending appeal is denied.

CV-23-818. Newland & Associates, PLLC, Trustee of the Michael Allen Lasiter Revocable Trust v. Caroline Lasiter, from Pulaski County Circuit Court, Twelfth Division. Appellant's motion to supplement the record is granted. Gruber, J., not participating. Writ issued; returnable in thirty days (February 16, 2024).

E-22-196. Tiffany Evans v. Director et al., from the Arkansas Board of Review. Petitioner's motion to file a belated motion is denied.

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PER CURIAM ORDERS

E-22-419. Daniel Abadom v. Director et al., from the Arkansas Board of Review. Appellee's motion for extension of time to file supplemental record is granted. Tendered supplemental record filed this date.

E-22-420. Daniel Abadom v. Director et al., from the Arkansas Board of Review. Appellee's motion for extension of time to file supplemental record is granted. Tendered supplemental record filed this date.

E-23-438. The Ohio Club, Jeannie Mir, Owner v. Director et al., from the Arkansas Board of Review. Respondent's motion to dismiss appeal is moot.

E-23-438. The Ohio Club, Jeannie Mir, Owner v. Director et al., from the Arkansas Board of Review. Respondent's amended motion to dismiss appeal is granted.

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MOTIONS SUBMITTED

PETITIONS FOR REHEARING:

CR-22-583. Albert B. Mitchell v. State of Arkansas, from Garland County Circuit Court.

CV-21-172. Mark Cambiano and Chris Cambiano v. Arkansas Oil and Gas Commission; Flywheel Energy Production, LLC; XTO Energy INC.; and Merit Energy Company, LLC, from Conway County Circuit Court.

CR-22-268. Mikato Fulks v. State of Arkansas, from Washington County Circuit Court. Motion of Ben Motal for attorney's fees.

CR-22-566. Randy Hyatt v. State of Arkansas, from Grant County Circuit Court. Motion of Gregory Crain for fees.

CR-23-285. Todd Menard v. State of Arkansas, from Garland County Circuit Court. Appellant's motion for leave to amend reply brief.

CR-23-567. Lillian Houselog v. State of Arkansas, from Sevier County Circuit Court. Motion of Marsha L. Levick for admission pro hac vice of non-resident attorney and affidavit of resident attorney.

CR-23-657. Patrick Ables v. State of Arkansas, from Arkansas County Circuit Court, Northern District. Appellant's motion for extension of time to file brief.

CR-23-819. Kathy Hicks v. State of Arkansas, from Faulkner County Circuit Court. Motion of Evan D. Hogue to be relieved as counsel.

CR-24-12. Raul Torres-Garcia v. State of Arkansas, from Benton County Circuit Court. Appellant's pro se petition for leave to file a belated appeal from the denial of post conviction relief with current affidavit of indigency.

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MOTIONS SUBMITTED

CV-23-648. Malik Muntaqim, Carter Pernell, and Quvondo Thrower v. Roosevelt Barden, James Gibson, Joseph Mahoney, Andrea Weekly Culclager, Brandon Carroll, Donald Compton, Scott Taylor, Adam Clark, Dexter Payne, Floria Washington, James Shipman, Marshall Reed, and Bob Parker, from Jefferson County Circuit Court. Pro se motion of separate appellant Malik Muntaqim for voluntary dismissal of appeal without prejudice.

CV-23-679. (In the Matter of the Guardianship of Minor Child) Sandra Andraca v. Patricia Louann Tice, from Pope County Circuit Court. Appellant's motion to consolidate record with record from prior appeal.

CV-23-842. Jeremy Kennedy v. Arkansas Parole Board, from IZARD County Circuit Court. Appellant's pro se motion for rule on clerk to file the motion for belated appeal without a certified record and to proceed with an appeal of the order without a certified record.

CV-23-842. Jeremy Kennedy v. Arkansas Parole Board, from IZARD County Circuit Court. Appellant's pro se amended motion for rule on clerk to file motion for belated appeal without a certified record and to proceed with an appeal of the order without a certified record.

CV-24-2. Mohammed A. Yafai v. Sonya H. Alammery, Mahdi Saleh, Abdo Yafai, Mutee Yafai, and Ali Yafai, from Pulaski County Circuit Court, Fourteenth Division. Appellant's motion to complete the record.

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CASES SUBMITTED

CR-22-717. Bryan Porras v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District.

CR-22-778. Lloyd Barber, Jr. v. State of Arkansas, from St. Francis County Circuit Court.

CR-22-818. Darrell Cortez Johnson v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division.

CR-23-232. Joseph Dickerson v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division.

CR-23-239. Andre L. Cain v. State of Arkansas, from Garland County Circuit Court.

CR-23-281. George Fowler v. State of Arkansas, from Sebastian County Circuit Court, Greenwood District.

CR-23-292. Trina Honeycutt v. State of Arkansas, from Craighead County Circuit Court, Western District.

CR-23-294. Trina Honeycutt v. State of Arkansas, from Craighead County Circuit Court, Western District.

CR-23-321. Jeffery Matlock v. State of Arkansas, from Hot Spring County Circuit Court.

CR-23-352. Anthony Carter v. State of Arkansas, from Garland County Circuit Court.

CR-23-430. Larry Wilson v. State of Arkansas, from Lincoln County Circuit Court.

CR-23-457. Harry Almond v. State of Arkansas, from Benton County Circuit Court.

CV-22-108. John Wesley Tippit v. Charlotte A. Davis, from Clay County Circuit Court, Western District.

CV-22-109. John Wesley Tippit v. Charlotte A. Davis, from Clay County Circuit Court, Western District.

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CASES SUBMITTED

CV-22-231. Robin Dee Enterprises, Inc. v. Carvin Burns, from Phillips County Circuit Court.

CV-22-357. Leticia Sanders v. JLP, LLC, from Pulaski County Circuit Court, Seventeenth Division.

CV-22-449. Phoebe Griffin v. Arkansas Healthcare Services, LLC, d/b/a Physicians for Women, from Garland County Circuit Court.

CV-22-517. Hot Springs Nursing and Rehabilitation - A Waters Community, LLC; The Waters of Arkansas Master Tenant, LLC; Catheran Atlas, Individually and in Her Capacity as the Administrator of Hot Springs Nursing and Rehabilitation - A Waters Community, LLC; and John Doe Defendants 1 Through 5 v. Kelly C. Hooker, as Personal Representative of the Estate of Patricia Ann Greeson, Deceased, and on Behalf of the Wrongful Death Beneficiaries of Patricia Ann Greeson, from Garland County Circuit Court.

CV-22-532. William N. Gillison Revocable Trust v. William W. Bunker and Claudia M. Bunker Joint Revocable Trust, from Chicot County Circuit Court.

CV-22-533. Joshua Glass v. Tanya Glass, from Pulaski County Circuit Court, Thirteenth Division.

CV-23-493. Paula Robinson and Tyrone Robinson v. Arkansas Department of Human Services and Minor Children, from Greene County Circuit Court.

CV-23-543. Brooke Wilkerson v. Arkansas Department of Human Services and Minor Children, from Franklin County Circuit Court, Northern District.

CV-23-546. Mario Rugoma, Sr. v. Arkansas Department of Human Services and Minor Child, from Yell County Circuit Court, Southern District.

CV-23-578. Christian Lewis v. Arkansas Department of Human Services and Minor Child, from Garland County Circuit Court.