

DROKE *v.* ROGERS.

4-8026

198 S. W. 2d 180

Opinion delivered December 16, 1946.

APPEAL AND ERROR.—Appellant having failed to abstract the pleadings, instructions, verdict and judgment and motion for new trial, appellee's motion to affirm for failure to comply with rule IX of this court will, since appellee has not supplied the necessary abstract, be granted.

Appeal from Randolph Circuit Court; *John L. Bledsoe*, Judge; affirmed.

*Vernon J. King* and *E. Newton Ellis*, for appellant.

*Schoonover & Steimel*, for appellee.

McHANEY, Justice. Appellant says: "This is an action to recover broker's commissions alleged by appellee to have been earned on the sale of property of the appellant. We believe the record in this case shows the following to be the evidence given in the case." He then

sets out quite briefly what he says is the effect of the evidence. The pleadings have not been abstracted. The instructions are not set out or abstracted. The verdict and judgment are not set out. The motion for a new trial, if any, and the action of the court thereon, if it did act, are not mentioned in appellant's abstract and brief.

So, at the outset, appellant is met by appellee's motion to affirm the judgment for noncompliance with Rule IX, which motion must be and is sustained on the authority of numerous cases. See *Siloam Springs v. Broyles*, 87 Ark. 202, 112 S. W. 219, and the many cases there cited; *Queen of Ark. Ins. Co. v. Royal*, 102 Ark. 95, 143 S. W. 596; *Winn v. Schneider*, 207 Ark. 605, 182 S. W. 2d 216.

Appellee has not supplied the deficiencies in appellant's abstract, and the judgment is affirmed.

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