

DIXON TICONDEROGA COMPANY  
v. WINBURN TILE MANUFACTURING COMPANY

95-812

911 S.W.2d 955

Supreme Court of Arkansas  
Opinion delivered December 18, 1995

1. APPEAL & ERROR — MOTION TO SUPPLEMENT APPELLANT'S ABSTRACT GRANTED — CASE WAS NOT READY FOR SUBMISSION. — Because the case was not yet ready for submission, the supreme court granted appellant's motion to supplement its abstract, allowing appellant fifteen days within which to file a substituted abstract and brief.
2. APPEAL & ERROR — APPELLANT'S ATTORNEY MAY BE ALLOWED TO REVISE BRIEF WHERE NO UNREASONABLE OR UNJUST DELAY IN DISPOSITION OF APPEAL IS CAUSED. — Rule 4-2(b)(2) of the Rules of the Supreme Court provides that, when it does not cause an unreasonable or unjust delay in the disposition of an appeal, an appellant's attorney may be allowed time to revise his brief, at his own expense, to conform to Rule 4-2(a)(6); however, he may not simply address the new issue in his reply brief, as the rule requires that appellee be afforded the opportunity to revise or supplement its brief; the supreme court concluded that granting the motion in the present case would not cause an unjust delay because the case was not yet ready for submission and other cases were ready for submission; appellee was afforded an opportunity to revise or supplement its brief, upon appellant's filing of the substituted and brief, at the expense of appellant's counsel.

Appeal from Pulaski Circuit Court; *John B. Plegge*, Judge;  
Motion to Supplement Appellant's Abstract; granted.

*Allen Law Firm*, by: *H. William Allen*, for appellant.

*John E. Tull, III*, for appellee.

[1] PER CURIAM. The appellant, Dixon Ticonderoga Co., filed its abstract and brief in this case. The Winburn Tile Manufacturing Co. filed the appellee's brief. Prior to the time appellant's reply brief was due, the appellant's attorney realized that the abstract was insufficient to address an issue raised by appellee in its brief, and filed a motion asking that he be allowed to supplement appellant's abstract. Since the case is not yet ready for

submission, we grant the motion and allow the appellant fifteen days within which to file a substituted abstract and brief.

[1] Rule 4-2(b)(2) of the Rules of the Supreme Court provides that, when it does not cause an unreasonable or unjust delay in the disposition of an appeal, an appellant's attorney may be allowed time to revise his brief, at his own expense, to conform to Rule 4-2(a)(6); however, he may not simply address the new issue in his reply brief, as the rule requires that appellee be afforded the opportunity to revise or supplement its brief. Granting the motion in this case will not cause an unjust delay since the case is not yet ready for submission and other cases are ready for submission. Upon filing of the substituted abstract and brief, the appellee will be afforded an opportunity to revise or supplement its brief, at the expense of the appellant's counsel.

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