

Josephine Louise LADD v. Lon H. LADD, Sr.

78-142

576 S.W. 2d 178

February 5, 1979

APPEAL & ERROR — FAILURE TO PROPERLY ABSTRACT RECORD —  
WHEN SUBSTITUTED ABSTRACT PERMITTED. — Where an abstract  
was not flagrantly deficient and affirmance for noncompliance  
with Rule 9 (e) (2), Rules of the Supreme Court, would be un-  
duly harsh, *held*, appellant's attorneys were allowed 30 days  
within which to file a substituted abstract and brief, including  
but not limited to any and all agreements between the parties  
pertinent to trial *de novo* on appeal, with the expense to be borne  
by appellant's attorneys.

Appeal from Washington Chancery Court, *Thomas F.  
Butt*, Chancellor; order for reabstracting of record.

*Bass Trumbo of Kincaid, Horne & Trumbo*, for appellant.

*Charles Hanks and Thomas Pearson, Sr.*, of *Pearson & Pear-  
son*, for appellee.

PER CURIAM

Our attention has been called to deficiencies in the ab-

stracting of the record in this case, which have arisen because of a misunderstanding of the responsibility for abstracting certain portions of the record which appear to be pertinent to a de novo review in this chancery case. The abstract is not flagrantly deficient and affirmance for noncompliance with the rule would be unduly harsh. Appellant's attorneys are allowed 30 days within which to file a substituted abstract and brief pursuant to Rule 9 (e) (2) of the Rules of the Supreme Court, which shall include, but not necessarily be limited to, an abstract of any and all agreements between the parties which are pertinent to trial de novo on appeal. Appellee is allowed 21 days within which to revise or supplement his brief. The expense of the substituted brief of appellant and of any revision or supplement to appellee's brief made necessary by the substituted abstract and brief shall be borne by appellant's attorneys. When these briefs have been filed, the case will be set for oral argument in banc.

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