

SUPREME COURT OF ARKANSAS

No. 11-974

MICHAEL GARTMAN AND KEMAL
KUTAIT, INDIVIDUALLY, ON BEHALF
OF THE ESTATE OF REBECCA
KUTAIT, AND ON BEHALF OF THE
WRONGFUL-DEATH BENEFICIARIES
PETITIONERS

VS.

FORD MOTOR COMPANY AND
CRAIN FORD LINCOLN MERCURY
RESPONDENTS

Opinion Delivered October 27, 2011

PETITION FOR WRIT OF
CERTIORARI

GRANTED.

PER CURIAM

Petitioners Michael Gartman and Kemal Kutait, individually, on behalf of the estate of Rebecca Kutait, and on behalf of the wrongful-death beneficiaries, filed a petition for writ of certiorari to obtain an extension to file a complete record on appeal. We grant the petition for writ of certiorari.

The Hot Spring County Circuit Court entered its judgment, reflecting a jury verdict, on February 1, 2011. On February 11, 2011, petitioners timely filed a motion for new trial. Ark. R. Civ. P. 59(b). By rule, a circuit court must enter an order addressing a new-trial motion within thirty days, or the motion is deemed denied on the thirtieth day. Ark. R. App. P.–Civ. 4(b)(1). Here, the deemed-denied date fell on March 13, 2011, which was a Sunday. Thus, the motion was deemed denied on Monday, March 14, 2011.

The parties filed a joint notice of appeal on April 8, 2011. On July 1, 2011, the parties filed a joint motion for extension of time for filing the record, noting that the record was due



on July 7, 2011 and that an extension was necessary because of the court reporter’s schedule. In the motion, the parties requested an additional ninety days. The circuit court granted the parties’ motion and extended the time to file the record until October 5, 2011. Soon after, the court reporter became ill, underwent surgery, and was unable to work on the record for approximately four weeks. On October 3, 2011, petitioners filed with our clerk a petition for writ of certiorari to obtain an extension of time to file the record, pursuant to Rule 5(b)(2) of the Arkansas Rules of Appellate Procedure–Civil. In their petition, they sought an extension of time for filing the record and prayed that this court extend the deadline to December 4, 2011.

Rule 5(b)(2) states that “[i]n no event shall the time be extended more than seven (7) months from the date of the entry of the judgment or order, or from the date on which a timely postjudgment motion is deemed to have been disposed of under Rule 4(b)(1), whichever is later.” Here, petitioners filed their postjudgment motion on February 11, 2011. Thus, the latest date for the record to be filed was seven months from the deemed–denied date of March 14, 2011, which we calculate as October 14, 2011. Pursuant to Rule 5(b)(3), petitioners filed their petition on October 3, 2011, before the expiration of the maximum seven–month extension. Therefore, pursuant to Arkansas Supreme Court Rule 3–5, we order that the record be completed and certified within thirty days of the issuance of the mandate.

Writ granted.