

SUPREME COURT OF ARKANSAS

No. 11-612

FORD MOTOR COMPANY
APPELLANT

V.

PAULETTE R. WASHINGTON
APPELLEE

Opinion Delivered September 13, 2012

APPEAL FROM THE JEFFERSON
COUNTY CIRCUIT COURT,
[NO. CV-2003-627]

HONORABLE BERLIN C. JONES,
JUDGE

APPEAL DISMISSED WITHOUT
PREJUDICE.

JIM HANNAH, Chief Justice

Appellant Ford Motor Company appeals from the judgment of the Jefferson County Circuit Court reflecting the jury’s award of compensatory and punitive damages in favor of appellee Paulette R. Washington, individually and as administratrix of the Estate of Johnny Ray Washington, deceased, and as parent and legal guardian of Terian Washington, a minor. Ford also appeals the circuit court’s denial of its postjudgment motions. On appeal, Ford contends that (1) the circuit court’s exclusion of evidence that the decedent was not wearing a seat belt at the time of his automobile accident requires a new trial, (2) Washington’s “improper glazing” claim is preempted by federal law, (3) Ford is entitled to judgment notwithstanding the verdict on the issue of punitive damages, and (4) the compensatory-damages award should be reduced by 50 percent, pursuant to Arkansas Code Annotated sections 16-61-204 to -205 (Repl. 2005). Because we conclude that there is no final order in this case, we dismiss the appeal without prejudice.

Washington's action arose out of an automobile accident that occurred on August 23, 2000, involving her husband, now deceased, and their minor child. According to testimony at trial, Karah Allen Williams, who was driving a 1997 Nissan Sentra, collided with the decedent's 1994 Ford Explorer. As a result of the collision, the Explorer slid toward and over a curb, rolled over twice, and landed right-side up. The decedent was transported to the emergency room, where he was later pronounced dead; their minor son survived the accident.

On August 14, 2003, Washington filed a complaint against Ford, the manufacturer of the Explorer; Freeway Ford Lincoln Mercury, Inc., the dealer that sold the vehicle; and Williams. Washington alleged claims against Ford and Freeway for negligence, strict liability, failure to warn, and breach of warranties. Washington also alleged that Williams was negligent in running a stop sign and was the proximate cause of the accident. Williams later entered into a settlement-and-release agreement with Washington, and on August 7, 2006, the circuit court entered an order dismissing with prejudice all claims against Williams.

At trial, Washington moved to nonsuit her claims against Freeway. Although the circuit court granted the motion orally, no written order to that effect is in the record. A voluntary nonsuit is "effective only upon entry of a court order dismissing the action." Ark. R. Civ. P. 41(a) (2011). Because no order dismissing Freeway from this case was entered, there is no final judgment as required by Arkansas Rule of Civil Procedure 54(b).

Under Rule 54(b), an order that fails to adjudicate all of the claims as to all of the parties, whether presented as claims, counterclaims, cross-claims, or third-party claims, is not final for purposes of appeal. *E.g., Harrill & Sutter, PLLC v. Farrar*, 2011 Ark. 181. Although

Rule 54(b) provides a method by which the circuit court may direct entry of a final judgment as to fewer than all of the claims or parties, where there is no attempt to comply with Rule 54(b), the order is not final, and we must dismiss the appeal. *Id.* The failure to comply with the provisions of Rule 54(b) affects the subject-matter jurisdiction of this court. *Id.* Thus, this court is obligated to raise the issue on its own. *Id.*

We dismiss this appeal without prejudice because the failure to comply with Rule 54(b) deprives this court of subject-matter jurisdiction.

Dismissed without prejudice.

Wright, Lindsey & Jennings, LLP, by: *Edwin L. Lowther, Jr., Paul D. Morris, and Gary D. Marts, Jr.*, for appellant.

The Duncan Firm, by: *Phillip J. Duncan; Denney & Barrett, P.C.*, by: *Richard L. Denney and Lydia JoAnn Barrett; Brian G. Brooks, Attorney at Law, PLLC*, by: *Brian G. Brooks*, for appellee.