

SUPREME COURT OF ARKANSAS

Talbert v. U.S. Bank

266 S.W.3d 741, 371 Ark. 429 (2007) · No. No. 07-497 · Decided November 1, 2007

SUMMARY

The Arkansas Supreme Court ordered rebriefing in Debra Talbert's appeal from a summary-judgment order in favor of U.S. Bank. The court held that the appellant's brief failed to comply with Arkansas Supreme Court Rule 4-2(a)(5) because it did not properly abstract the relevant discussion from the summary-judgment hearing, and directed her to file a substituted brief within fifteen days.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Arkansas
DECIDED	November 1, 2007
DOCKET	No. 07-497
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from the Pulaski County Circuit Court's order granting U.S. Bank's motion for summary judgment. The Arkansas Supreme Court ordered rebriefing because the appellant's brief lacked a proper abstract.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Debra Talbert v. U.S. Bank

TOPICS

- appellate procedure
- civil procedure
- summary judgment

PRACTICE AREAS

- Appellate procedure
- Civil procedure

QUESTIONS PRESENTED

1. Whether the appellant's failure to provide a proper abstract of the relevant summary-judgment hearing required rebriefing under Arkansas Supreme Court Rule 4-2.

HOLDINGS

1. When an appellant's abstract is deficient and prevents the court from reaching the merits or causes unreasonable or unjust delay, the court may require the appellant to file a substituted abstract, Addendum, and brief within the prescribed time under Arkansas Supreme Court Rule 4-2(b)(3).

KEY QUOTATIONS

"If the Court finds the abstract or Addendum to be deficient such that the Court cannot reach the merits of the case, or such as to cause an unreasonable or unjust delay in the disposition of the appeal, the Court will notify the appellant that he or she will be afforded an opportunity to cure any deficiencies, and has fifteen days within which to file a substituted abstract, Addendum, and brief, at his or her own expense, to conform to Rule 4-2(a)(5) and (8)." (266 S.W.3d at 741)

FACTUAL BACKGROUND

At a January 8, 2007 hearing, the parties discussed U.S. Bank's motion for summary judgment. One issue was whether U.S. Bank had waived its right to collect \$15,000 from Talbert by failing to place a permanent hold on her account. Talbert raised waiver as an appellate point but failed to abstract the portion of the hearing transcript addressing that issue.

PROCEDURAL HISTORY

The Pulaski County Circuit Court granted U.S. Bank's motion for summary judgment after a January 8, 2007 hearing addressing the motion and whether U.S. Bank waived its claim for \$15,000. On appeal, Talbert failed to abstract the relevant discussion from the hearing. The Supreme Court of Arkansas ordered Talbert to file a substituted abstract, Addendum, and brief within fifteen days, warning that failure to comply could result in affirmance for noncompliance.

DISPOSITION

other

REMAND INSTRUCTIONS

Talbert must abstract the entire transcript of the January 8, 2007 hearing and file a substituted brief within fifteen days from entry of the order. U.S. Bank may file a responsive brief within the time prescribed by the Supreme Court Clerk or rely on its previously filed brief.