

SUPREME COURT OF ARKANSAS

Sims v. Fletcher, 368 Ark. 178

243 S.W.3d 863 (2006) · No. No. 06-463 · Decided November 30, 2006

SUMMARY

The Supreme Court of Arkansas dismissed an appeal arising from the judicial dissolution of a law firm and the adjudication of creditor claims. The court held that the appeal was not from a final, appealable order because the appellee's counterclaim remained unresolved and there was no Rule 54(b) certification. The dismissal was without prejudice, and the court did not reach the appellants' due-process, jurisdictional, or findings-of-fact arguments.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Donald L. Corbin
JURISDICTION	Arkansas
DECIDED	November 30, 2006
DOCKET	No. 06-463
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from orders entered in a judicial-dissolution proceeding that summarily denied purported creditors' claims. The Supreme Court of Arkansas dismissed the appeal without prejudice because the trial court had not adjudicated Fletcher's counterclaim and had not entered a final, appealable order.
STANDARD OF REVIEW	The court did not reach the merits because appellate jurisdiction was absent; it reviewed whether a final, appealable order existed under the Arkansas Rules of Appellate Procedure and Rule 54(b).
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Micheal Dewayne Sims, Bob Bomar, Geraldine Reshel, Kenneth Way, Nathan Hutson Way, Humnoke Farms, Inc., Gerald P. Smith, Betty Hoyt v. Scott Fletcher, Keith Moser, Barry Jewell, Jewell, Moser, Fletcher & Holleman, P.A.

TOPICS

final judgment rule

appellate jurisdiction

appellate procedure

dissolution

civil procedure

PRACTICE AREAS

civil procedure

appellate procedure

corporate law

commercial litigation

QUESTIONS PRESENTED

1. Whether the Supreme Court of Arkansas had appellate jurisdiction when the trial court had not resolved Scott Fletcher's counterclaim and had not entered a Rule 54(b) certification.
2. Whether an order adjudicating some creditor claims but leaving other claims unresolved constituted a final, appealable order.

HOLDINGS

1. The appeal must be dismissed without prejudice because no final, appealable order had been entered.

KEY QUOTATIONS

"Accordingly, because Fletcher's counterclaim remains outstanding, we dismiss the present appeal without prejudice." (243 S.W.3d at 866)

"Well, let me just say this: What we're going to do, since this is a little bit of an unusual proceeding, is, I am going to make sure to the best of my ability that each of your respective clients feels like they had their day in court fully and completely and try my best to make an informed decision on that." (243 S.W.3d at 865)

FACTUAL BACKGROUND

Jewell, Moser, Fletcher, and Holleman were associated with the law firm Jewell, Moser, Fletcher & Holleman, P.A., which ceased practicing together while continuing to collect receivables. Jewell sought judicial dissolution and an accounting, and the trial court appointed a receiver to administer the firm's assets and claims. Several purported creditors filed claims in the dissolution proceeding; after allowing some claims, the trial court summarily denied the appellants' claims. Fletcher's counterclaim against Jewell remained unresolved.

PROCEDURAL HISTORY

Barry Jewell filed a complaint in Pulaski County Circuit Court seeking judicial dissolution and an accounting of Jewell, Moser, Fletcher & Holleman, P.A. The trial court granted summary judgment concerning dissolution, appointed a receiver, allowed certain parties to intervene, and adjudicated some creditor claims while summarily denying the appellants' claims. Because Scott Fletcher's counterclaim remained unresolved and there was no Rule 54(b) certification, the Supreme Court dismissed the appeal without prejudice.

DISPOSITION

dismissed

CASES CITED

- Seay v. C.A.R. Transp. Brokerage Co., 366 Ark. 527, 237 S.W.3d 48 (2006)
- Coleman v. Regions Bank, 364 Ark. 85, 216 S.W.3d 579 (2005)
- Hambay v. Williams, 335 Ark. 352, 980 S.W.2d 263 (1998)
- NCS Healthcare of Ark., Inc. v. W.P. Malone, Inc., 362 Ark. 169, 207 S.W.3d 552 (2005) (per curiam)

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