

SUPREME COURT OF ARKANSAS

Boatmen's Trust Co. v. Housing Authority of City of North Little Rock

346 Ark. 192 (2001) · Decided October 11, 2001

SUMMARY

The Arkansas Supreme Court affirmed summary judgment in favor of the defendants because the appellants' abstract was flagrantly deficient under Arkansas Supreme Court Rule 4-2(a)(6). The court held that the deficient abstract prevented review of the summary-judgment ruling and rendered the appellees' motion to strike moot.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	W.H. "Dub" Arnold, Chief Justice
JURISDICTION	Arkansas
DECIDED	October 11, 2001
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from summary judgment entered for the appellees in a personal-injury and products-liability action. The Supreme Court of Arkansas affirmed because the appellants' abstract remained flagrantly deficient despite an opportunity from the court of appeals to correct it.
STANDARD OF REVIEW	The court's appellate review was limited to the record as abstracted. It would not reach the merits of the summary-judgment ruling when necessary documents or proceedings were not adequately abstracted.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Boatmen's Trust Co. and other appellants v. Housing Authority of the City of North Little Rock, Audubon Indemnity Company, Rheem Manufacturing Company, NorAm Energy Corporation, Crane Company

TOPICS

- appellate procedure
- summary judgment
- preservation of error
- civil procedure

PRACTICE AREAS

appellate procedure

civil procedure

summary judgment

personal injury

products liability

QUESTIONS PRESENTED

1. Whether the appellants' substitute brief and abstract complied with Arkansas Supreme Court Rule 4-2(a) (6).
2. Whether the Supreme Court could review the propriety of summary judgment when the abstract omitted or inadequately presented material portions of the record.

HOLDINGS

1. The abstract was flagrantly deficient because it omitted or inadequately summarized material pleadings, proceedings, exhibits, testimony, arguments, and the trial court's ruling necessary to understand the issues on appeal.
2. The court could not review the merits of the summary-judgment ruling because the flagrantly deficient abstract made it impossible to determine whether the appellate court had the same materials relied upon by the trial court.

KEY QUOTATIONS

"It is well established that the abstract is the record for purposes of appeal, and the burden is on the appealing party to provide both a sufficient record and abstract for appellate review." (346 Ark. 192)

"In short, it is clear that appellants' abstract is flagrantly deficient." (346 Ark. 192)

"As such, we affirm the case based upon the deficiency of the abstract." (346 Ark. 192)

FACTUAL BACKGROUND

Twenty-two-month-old James D. Henderson suffered severe scald burns while in the bathtub of his apartment. His family alleged that the housing authority and insurer failed to maintain or inspect the water heater and warn of its dangers, while the manufacturers, utility, and fixture manufacturer were alleged to have supplied defective equipment or failed to provide warnings. The trial court concluded that the mother's actions constituted an intervening cause and granted summary judgment to the defendants.

PROCEDURAL HISTORY

The trial court granted summary judgment to the landlord, insurer, water-heater manufacturer, utility, and fixture manufacturer, finding that the child's mother's conduct was an intervening cause barring the claims. The appellants appealed to the Arkansas Court of Appeals, which ordered a substitute brief because of deficiencies in the abstract. After the substitute brief was filed, the case was assigned to the Supreme Court of Arkansas, which held that the abstract remained flagrantly deficient and affirmed without reaching the merits.

DISPOSITION

affirmed

CASES CITED

- Warnock v. Warnock, 336 Ark. 506, 988 S.W.2d 7
- City of West Memphis v. City of Marion, 332 Ark. 421, 965 S.W.2d 776
- Blunt v. Cartwright, 342 Ark. 662, 30 S.W.3d 737
- Luttrell v. City of Conway, 339 Ark. 408, 5 S.W.3d 464
- Cosgrove v. City of West Memphis, 327 Ark. 324, 938 S.W.2d 827
- Adams v. State, 276 Ark. 18, 631 S.W.2d 828
- In the Matter of the Estate of Brumley, 323 Ark. 431, 914 S.W.2d 735
- Mary Kay, Inc. v. Isbell, 336 Ark. 374, 986 S.W.2d 90
- Porter v. Porter, 329 Ark. 42, 945 S.W.2d 376
- Boren v. Worthen Nat'l Bank, 324 Ark. 416, 921 S.W.2d 934