

SUPREME COURT OF ARKANSAS

Earls v. Harvest Credit Management VI-B, LLC

2015 Ark. 175 (2015) · No. CV-14-456 · Decided April 23, 2015

SUMMARY

The Arkansas Supreme Court held that a summons was defective because it misstated the response period for incarcerated defendants, even though the defendants served in the case were not incarcerated. Applying Arkansas's strict-compliance standard for summonses, the court reversed the default judgment and denial of the motion to set it aside, remanded the case, and vacated the court of appeals' opinion.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Jim Hannah, Chief Justice; Josephine Linker Hart, Justice; Karen R. Baker, Justice; Goodson, Justice; Wood, Justice
JURISDICTION	Arkansas
DECIDED	April 23, 2015
DOCKET	CV-14-456
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Linda J. Earls appealed the denial of her motion to set aside a default judgment entered in favor of Harvest. The Arkansas Supreme Court granted Harvest's petition for review of the court of appeals' decision reversing the circuit court.
STANDARD OF REVIEW	Review of an order denying a motion to set aside a default judgment is dependent on the asserted grounds. Review is de novo when the appellant claims that the default judgment is void, and interpretation of a court rule is also reviewed de novo.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; binding precedent in Arkansas.
PARTIES	Linda J. Earls, Tony L. Earls v. Harvest Credit Management VI-B, LLC

TOPICS

service of process

default judgment

default

civil procedure

appellate procedure

PRACTICE AREAS

civil procedure

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether a summons is defective when it incorrectly states the response period for a category of defendants that does not include the actual defendants served.
2. Whether the defective summons deprived the circuit court of jurisdiction and required setting aside the default judgment.

HOLDINGS

1. A summons must state the response times correctly and exactly for each category of defendant identified in the summons, including in-state, out-of-state, and incarcerated defendants. An incorrect response time renders the summons noncompliant with Arkansas Rule of Civil Procedure 4(b), even when the error does not apply to the actual defendants served.
2. Because Harvest's summons contained an incorrect response time, it failed to strictly comply with Rules 4(b) and 12(a), rendering service defective and requiring reversal of the default judgment and denial of the motion to set aside the judgment.

KEY QUOTATIONS

“Our case law is well settled that statutory service requirements, being in derogation of common-law rights, must be strictly construed and compliance with them must be exact.” (2015 Ark. 175, at 5)

“Thus, we conclude that the response times for each category of defendant—in-state, out-of-state, and incarcerated defendants—must be correct and exact.” (2015 Ark. 175, at 7)

FACTUAL BACKGROUND

Linda and Tony Earls incurred an outstanding balance of \$4,678.21 on a Chase credit-card account that was later assigned to Harvest. Harvest sued for the balance, prejudgment interest, and attorney's fees, and the Earlses were served with a summons stating that an in-state defendant had twenty days to answer, an out-of-state defendant had thirty days, and an incarcerated defendant also had thirty days. Under Arkansas Rule of Civil Procedure 12(a), incarcerated defendants were entitled to sixty days, although the Earlses were not incarcerated. The Earlses did not answer, and the circuit court entered a default judgment.

PROCEDURAL HISTORY

Harvest obtained a default judgment against Linda and Tony Earls in Greene County Circuit Court after they failed to answer a complaint concerning a credit-card debt. Linda later moved to set aside the judgment, arguing that the summons was defective because it incorrectly stated the response period for incarcerated defendants. The circuit court denied the motion, and the court of appeals reversed. The Supreme Court of Arkansas granted

review, treated the matter as if originally filed there, reversed the circuit court, and vacated the court of appeals' opinion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court's grant of default judgment and denial of Linda's motion to set aside the default judgment were reversed. The court of appeals' opinion was vacated. The matter was remanded for further proceedings consistent with the ruling that service was defective.

CASES CITED

- Charkoma Res., LLC v. JB Energy Explorations, LLC, No. 09-02118, 2009 WL 4829014 (W.D. Ark. Dec. 8, 2009)
- Earls v. Harvest Credit Mgmt., 2014 Ark. App. 294
- Bohannon v. Robinson, 2014 Ark. 458, 447 S.W.3d 585
- Steward v. Kuettel, 2014 Ark. 499, 450 S.W.3d 672
- Gatson v. Billings, 2011 Ark. 125
- Talley v. Asset Acceptance, LLC, 2011 Ark. App. 757
- Nucor Corp. v. Kilman, 358 Ark. 107, 186 S.W.3d 720 (2004)
- Patsy Simmons Ltd. P'ship v. Finch, 2010 Ark. 451, 370 S.W.3d 257
- Smith v. Sidney Moncrief Pontiac, Buick, GMC Co., 353 Ark. 701, 120 S.W.3d 525 (2003)
- Trusclair v. McGowan Working Partners, 2009 Ark. 203, 306 S.W.3d 428
- In re Implementation of Amend. 80: Amendments to Rules of Civ. P., 345 Ark. App'x 606 (2001) (per curiam)
- Reichardt v. Creasey, 2010 Ark. App. 736, 379 S.W.3d 655
- Solis v. State, 371 Ark. 590, 269 S.W.3d 352 (2007)
- Sturdivant v. Sturdivant, 367 Ark. 514, 241 S.W.3d 740 (2006)