

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CA09-931

KRISTIN KUELBS, DONALD HILL,
AND EDWARDENA HILL
APPELLANTS

V.

KIMBERLY HILL
APPELLEE

Opinion Delivered MAY 12, 2010

APPEAL FROM THE GARLAND
COUNTY CIRCUIT COURT,
[NO. PR-07-610-2]

HONORABLE VICKI SHAW COOK,
JUDGE

REBRIEFING AND SUPPLEMENTAL
RECORD ORDERED

ROBERT J. GLADWIN, Judge

Appellants appeal from several orders of the Garland County Circuit Court concerning the guardianship of Kristin Kuelbs. However, we cannot reach the merits of appellants' arguments because certain material parts of the proceedings below are not included in the record on appeal. We therefore order appellants to supplement the record and to file a substituted brief.

On October 8, 2008, the circuit court entered an order appointing Valerie Swearingen as the guardian of Kristin Kuelbs's person and First National Bank of Hot Springs as the guardian of Kristin's estate. On October 17, 2008, appellants filed a notice of appeal from that order and they subsequently filed a notice of appeal from an attorney-fee order entered on January 5, 2009. In an opinion handed down today, this court dismissed the appeal from the

attorney-fee order and affirmed the court's other rulings. *Kuelbs v. Hill*, 2010 Ark. App. ____, ____, S.W.3d ____.

While the related appeal was pending, the circuit court continued to conduct proceedings throughout the remainder of 2008 and into 2009. As best we can tell by descriptions contained in the court's docket entries, the court appointed appellant Donald Hill as Kristin's guardian at some point in late 2008. However, in orders entered between March 6, 2009, and April 9, 2009, the court removed Donald as guardian and appointed appellee Kimberly Hill. Appellants now appeal from those and other orders entered between March 6, 2009, and April 9, 2009. However, the record does not contain numerous orders and other matters filed between the time that the first appeal was taken in October 2008 and the time that this appeal was taken in March and April 2009. We consider many of those matters material to our understanding of the present appeal. We therefore direct appellants to file with our clerk's office, within thirty days from the date of this order, a certified, supplemental record containing the following items: (1) all court orders entered between October 17, 2008, and March 5, 2009 (other than the January 5, 2009 attorney-fee order); (2) Donald Hill's notice of voluntary recusal as attorney entered on or about December 22, 2008; (3) Kimberly Hill's motions for reconsideration filed on or about December 19, 2008, and January 23, 2009; (4) appellants' responses to the motions for reconsideration. *See* Ark. R. App. P.–Civ. 6(c) and (e) (2009); *Chiodini v. Lock*, 2009 Ark. 343, ____, S.W.3d ____.

Cite as 2010 Ark. App. 412

Upon filing the supplemental record, appellants shall have fifteen days in which to file a substituted brief with an addendum that includes the additional items. *See* Ark. Sup. Ct. R. 4-2(b)(3) (2009). Appellants should also excise any matters, presently contained in their addendum, that are not part of the record on appeal. We do not consider matters that are not part of the record. *Union Pac. R.R. Co. v. Barber*, 356 Ark. 268, 149 S.W.3d 325 (2004). After service of appellants' substituted brief, appellee shall have the opportunity to revise or supplement her brief. If appellants fail to file a conforming brief within the prescribed time, we may affirm for noncompliance with our rules.

We also encourage appellate counsel to review *In re Arkansas Supreme Court and Court of Appeals Rules 4-1, 4-2, 4-3, 4-4, 4-7, and 6-9*, 2009 Ark. 534 (per curiam), to assure that all briefs comply with our new rules and that no additional deficiencies are present.

Rebriefing and supplemental record ordered.

HENRY and BROWN, JJ., agree.