

Cite as 2011 Ark. App. 310

ARKANSAS COURT OF APPEALSDIVISION III
No. CA10-1053

KEVIN KACHIGIAN

APPELLANT

V.

MARION COUNTY ABSTRACT
COMPANY, INC., and RANDAL
JACKSON

APPELLEES

Opinion Delivered APRIL 27, 2011APPEAL FROM MARION COUNTY
CIRCUIT COURT
[CV-2008-10-3]HONORABLE JOHN R. PUTMAN,
JUDGE

REBRIEFING ORDERED

RITA W. GRUBER, Judge

Appellant Kevin Kachigian appeals from an order of the Marion County Circuit Court granting summary judgment to appellee Marion County Abstract and dismissing his complaint. In his complaint, he alleged that he entered into an escrow agreement with Marion County Abstract and deposited \$150,000 and that Marion County Abstract breached the agreement by disbursing his monies without following the agreement's dictates. The circuit court dismissed the complaint because Mr. Kachigian failed to show that he deposited any money with Marion County Abstract. On appeal he contends that there is a material question of fact regarding the source of the funds transferred to appellee on the date he signed the escrow agreement and, therefore, that the circuit court erred as a matter of law by granting summary judgment on this issue. Because appellant's addendum is not in compliance with Arkansas Supreme Court Rule 4-2(a)(8), we do not consider the appeal at this time and order

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rebriefing.

Rule 4-2(a)(8) requires the addendum to contain all documents in the record that “are essential for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal.” Specifically, the Rule requires “all motions . . . , responses, replies, exhibits, and related briefs, concerning the order, judgment or ruling challenged on appeal” to be included. Ark. Sup. Ct. R. 4-2(a)(8)(A)(i) (2010).

In this case, the circuit court dismissed appellant’s complaint by granting appellee’s motion for summary judgment. However, appellant failed to include either appellee’s brief in support of its motion for summary judgment or its own brief in support of its response to appellee’s motion. Essential to our understanding of this case is an understanding of the parties’ arguments to the court explaining why summary judgment was or was not appropriate. Further, without their briefs, we cannot determine whether the parties’ arguments are properly preserved. *Bryan v. City of Cotter*, 2009 Ark. 172, at 4–5, 303 S.W.3d 64, 66–67. Therefore, we order rebriefing.

We order appellant to cure the deficiency by filing either a substituted brief, abstract, and addendum pursuant to Arkansas Supreme Court Rule 4-2(b)(3), or a supplemental abstract or addendum to provide the additional materials pursuant to Rule 4-2(b)(4). *See In re Ark. Supreme Court & Court of Appeals Rule 4-2(b)*, 2011 Ark. 141 (per curiam). In the event appellant fails to file a complying brief within the requisite time period as provided by the respective subsection, the judgment may be affirmed for noncompliance with the rule. *Id.*

Rebriefing ordered.

HART and MARTIN, JJ., agree.