

**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2017-CA-000748-MR

DEBRA J. JONES

APPELLANT

v. APPEAL FROM BELL CIRCUIT COURT,  
HONORABLE ROBERT COSTANZO, JUDGE  
ACTION NO. 13-CI-00196

KENTUCKY FARM BUREAU MUTUAL  
INSURANCE COMPANY<sup>1</sup> and HENRY HELTON

APPELLEES

OPINION  
AFFIRMING

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BEFORE: JONES, KRAMER, AND K. THOMPSON, JUDGES.

KRAMER, JUDGE: Debra Jones, *pro se*, appeals from the March 2017 judgment of the Bell Circuit Court, dismissing her third-party complaint against Henry Helton as barred by statutes of limitations. We affirm.

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<sup>1</sup> Although Kentucky Farm Bureau was named as an appellee, its action against Debra Jones was dismissed pursuant to an agreed order entered in the Bell Circuit Court on April 13, 2017. We also note that Jones styled her brief naming State Farm Bureau Insurance Company as the appellee, but the record does not show that State Farm Bureau was ever a party to this action.

## **Factual and Procedural Background**

Jones was involved in a motor vehicle accident on April 28, 2011.

William T. Gray was the driver of the second vehicle involved in the accident. He was driving a pickup truck owned by Helton, although Helton was not present.

Helton had the vehicle insured through Kentucky Farm Bureau (KFB). Jones did not have insurance at the time of the accident.

KFB filed the instant subrogation action to collect \$21,762.33, which had been paid to or for the benefit of Gray and/or Helton. The complaint was filed on April 22, 2013. Jones filed a counterclaim against KFB, alleging Gray, who was not a party to the action initiated by KFB, was negligent and demanded unspecified damages. The circuit court dismissed the counterclaim. Jones was granted leave to add Gray as a third-party defendant. She subsequently filed her third-party complaint on July 6, 2015. On September 21, 2015, the third-party complaint was amended to name Helton as a third-party defendant.

Helton moved for dismissal of the amended third-party complaint as barred by the applicable statutes of limitations for personal injury and property damage. The circuit court dismissed Jones's third-party complaint on March 31, 2017. This appeal followed. Of note, on April 13, 2017, KFB dismissed its claim against Jones pursuant to an agreed order between the parties.

## Analysis

We agree with Helton that the form and content of Jones's brief do not comply with the requirements set forth in CR<sup>2</sup> 76.12. The Kentucky Rules of Civil Procedure require an appellant's brief to contain "[a]n 'ARGUMENT' conforming to the Statement of Points and Authorities, with ample supportive references to the record and citations of authority pertinent to each issue of law . . . ." CR 76.12(4)(c)(v). Jones's brief lacks supportive references and citations of pertinent authority. The argument section of the brief does cite KRS 304.39-230, but states only that, "The claim against the insurance company was settled and paid to William Travis Gray on January 30, 2012, which would be the proper date per KRS 304.39-230 which would allow claims for losses up to four years after the accident."<sup>3</sup> This is the extent of Jones's legal argument. The remainder of her argument consists only of broad unsupported assertions (*e.g.*, "This is a double standard. The third party was allowed to file responses late, thus avoiding a default judgment, however if my responses had not been received, it is perceived that an automatic default judgment would have been entered against me."). It is not the function or responsibility of this Court to determine, research,

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<sup>2</sup> Kentucky Rule of Civil Procedure.

<sup>3</sup> William Travis Gray is not party to this appeal.

or make Jones's argument for her. *Harris v. Commonwealth*, 384 S.W.3d 117, 130-31 (Ky. 2012).

“It goes without saying that errors to be considered for appellate review must be precisely preserved and identified in the lower court.” *Elwell v. Stone*, 799 S.W.2d 46, 48 (Ky. App. 1990) (internal citation omitted). Procedural rules such as this “do not exist for the mere sake of form and style. They are lights and buoys to mark the channels of safe passage and assure an expeditious voyage to the right destination. Their importance simply cannot be disdained or denigrated.” *Louisville and Jefferson Cty. Metro. Sewer Dist. v. Bischoff*, 248 S.W.3d 533, 536 (Ky. 2007) (quoting *Brown v. Commonwealth*, 551 S.W.3d 557, 559 (Ky. 1977)). “Our options when an appellate advocate fails to abide by the rules are: (1) to ignore the deficiency and proceed with the review; (2) to strike the brief or its offending portions, CR 76.12(8)(a); or (3) to review the issues raised in the brief for manifest injustice only . . . .” *Hallis v. Hallis*, 328 S.W.3d 694, 696 (Ky. App. 2010) (internal citation omitted).

Jones has proceeded *pro se*. While it is true we do not hold *pro se* litigants to as stringent of a standard as we do licensed attorneys in the Commonwealth, we do require them to follow our Rules of Civil Procedure. *Louisville and Jefferson Cty. Metro. Sewer Dist.*, 248 S.W.3d at 537. The record in this case is approximately 160 pages. While far from one of the more voluminous

records before this Court, we are not required to scour the record to find where it might provide support for Jones's claims. *Smith v. Smith*, 235 S.W.3d 1, 5 (Ky. App. 2006). Rather than strike the brief, we will review the record for manifest injustice. Manifest injustice occurs if "the error so seriously affected the fairness, integrity, or public reputation of the proceeding as to be shocking or jurisprudentially intolerable." *Commonwealth v. Jones*, 283 S.W.3d 665, 668 (Ky. 2009) (internal quotations marks and citations omitted).

Aside from numerous unsubstantiated accusations against the circuit court, Jones asserts no arguments that warrant reversal. The circuit court dismissed any claims for personal injury or property damage against Helton as barred by the applicable statute of limitations.<sup>4</sup> Jones's third-party complaint against Helton was filed more than four and one-half years after the automobile accident. The initial complaint in the action was not filed by Jones. Rather, it was filed by KFB on April 22, 2013. Helton was not named by KFB as a party to the original action. Jones's original third-party complaint was filed on July 6, 2015, which was already more than four years after the motor vehicle accident. Jones provides no legal argument as to why her amended complaint to add Helton as a party to the action, filed on September 21, 2015, should "relate back" to the

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<sup>4</sup> KRS 304.39-230 provides a limitation of two years for personal injury actions. KRS 413.125 provides a limitation of two years for property damage actions.

original complaint filed by KFB in 2013, rather than to her own third-party complaint filed in 2015, pursuant to CR 15.03. Indeed, as previously stated, Jones fails to make a legal argument at all. There was no manifest injustice in the circuit court's judgment.

In light of the forgoing, we AFFIRM the judgment of the Bell Circuit Court.

JONES, JUDGE, CONCURS.

THOMPSON, K., JUDGE, CONCURS IN RESULT ONLY.

BRIEF FOR APPELLANT:

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BRIEF FOR APPELLEES:

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