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Overview of Missouri Appellate Briefing Rules and the Case of *Hicks v. Northland-Smithville*
Steve Lockwood*

Hicks v. Northland-Smithville is a reminder to follow the Missouri Rules of Appellate Procedure. In *Hicks*, the appellant failed to conform to the requirements of Rule 84.04. The Court did not reach the merits and dismissed the appeal.¹

Hicks was an appeal filed by Latice Hicks following a grant of summary judgment on her claims of workers' compensation retaliation and hostile work environment.² The Western District court held Hicks' brief failed to "substantially comply" with the briefing requirements of Rule 84.04 and dismissed the appeal following oral argument of the case.³ The Western District explained that although Missouri courts prefer to reach the merits of the case, when deficiencies in briefs fail to clearly identify the issues presented for review, it puts the court in the untenable position of becoming an advocate by speculating on the facts, arguments, and issues on appeal.⁴

The Court held that the deficient points relied on in Hicks' brief and the failure to follow Rule 84.04(d) with respect to the points was grounds to dismiss the appeal without reaching the merits.⁵ The Western District identified the deficiencies in the points relied on and further identified deficiencies in the statement of facts and the argument section of the appellant's brief.⁶ The Court then addressed each deficiency and explained the rationale behind Rule 84.04 as it pertained to each of the three deficiencies.⁷

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¹ *Hicks v. Northland-Smithville*, 655 S.W.3d 641, 645 (Mo. Ct. App. 2022)

² *Id.*

³ *Id.* at 645, 650 n.5.

⁴ *Id.* at 645-46.

⁵ *Id.* at 645.

⁶ *Id.* at 646-50.

⁷ *Id.*

1. Points Relied On

Missouri case law defines the function of the points relied on and Missouri's appellate rules of civil procedure provide the format for the setting forth of each point relied on.⁸ The Western District found both points relied on by Hicks to be deficient.⁹ The deficient points relied on, as well as the failure to list the cases relied upon under each point put the court in the untenable position to speculate as to the claims of error requiring reversal.¹⁰

The first point failed to follow the template of Rule 84.04(d) and each point failed to state the legal reasons for the claim of reversible error.¹¹ An appellate court's role is to review specifically challenged trial court rulings, not to sift through the record to detect possibly valid arguments.¹² Appellate courts can exercise their discretion to review a brief on the merits despite technical deficiencies in the points relied on if the statement of facts or argument section of the brief identifies and explains the legal challenges of the trial court's actions.¹³ However, where the argument section of the brief does not clarify the claims of error, dismissal is warranted.¹⁴

2. Statement of Facts

The function of the statement of facts in an appellate brief is to provide a fair and accurate rendition of the pertinent facts.¹⁵ Rule 84.04(c) requires that "[t]he statement of facts shall be a fair and concise statement of the facts relevant to the questions presented for determination" and "[a]ll statements of facts shall have specific page references to the relevant portion of the record on appeal, i.e. legal file, transcript, or exhibits."¹⁶

⁸ See Rule 84.04(d)(1).

⁹ *Id.*

¹⁰ *Id.* at 648, 650 n. 3.¹⁰

¹¹ *Id.* at 647.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* citing Rule 84.04(c).

Here, Hicks' statement of facts did not set forth any procedural facts relevant to the underlying claims of workers' compensation retaliation and hostile work environment or to the at issue motion for summary judgment.¹⁷ Further, Hicks failed to adequately cite to the record on appeal.¹⁸ The Western District explained that it is not the Appellate Court's function to confirm that the record supports the factual assertions in the brief and whether such evidence was properly before the trial court.¹⁹

3. Argument Section of Brief

The function of the argument section of the brief is to explain how the law and the facts interact to support the claim of reversible error.²⁰ It cannot be conclusory and without legal analysis.²¹ Here, the court found Hick's argument to be generalized and conclusory with the claims of error devoid of the legal analysis required.²²

Analysis

In a unanimous opinion, the Western District dismissed the appeal for violation of Missouri's appellate briefing requirements. The court explained each briefing error played a role in eroding the function of Missouri's briefing requirements. Each deficiency failed to put the court and opposing counsel on notice of the legal claims of error and failed to explain the basis for the legal arguments requiring reversal. The Western District emphasized the rationale behind Missouri's briefing rules and explained that the failure to put the court on notice of the claimed errors and legal arguments in support of each claim puts the court in the position of abandoning its function as a "neutral arbiter of the case."²³ The court also focused on how noncompliance with the rules wastes judicial and attorney

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 648-49.

²⁰ *Id.* at 649.

²¹ *Id.*

²² *Id.*

²³ *Id.* at 649.

resource – but also in identifying and framing the precise matters at issue on appeal.²⁴

Starting with the Missouri Supreme Court’s opinion in *Lexow*, appellate courts have put renewed emphasis on the requirements of Rule 84.04. The Missouri Supreme Court unanimously dismissed the *Lexow* case for failure to comply with the Court’s briefing requirements.²⁵

Following the Missouri Supreme Court’s refusal to reach the merits of the case in *Lexow* for failure to comply with Rule 84.04, the Missouri appellate courts have dismissed cases for failure to comply with Rule 84.04.²⁶

Each of these cases and Rule 84.04 serve as a mandatory guide in Missouri Appellate Brief Writing.

²⁴ *Id.* at 648-50.

²⁵ *Lexow v. Boeing Co.*, 643 S.W.3d 501, 503 (Mo. 2022).

²⁶ *See, Surgery Center Partners, LLC v. Mondelez International, Inc.*, 647 S.W.3d 38 (Mo. App. E.D. 2022) (dismissing appellant’s appeal).