

No. _____

IN THE
Supreme Court of the United States

David Tribble and Danny Tribble,
Petitioners

v.

First Security Bank, Jason Tribble,
Jennifer Tribble, and State of Arkansas
Respondents

On Petition for a Writ of Certiorari
To the Supreme Court of Arkansas

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Did reliance on the Appellate Review Attorney for the Office of the Clerk of the Arkansas Supreme Court and Court of Appeals' instruction for drafting Appellants' Abstract and Brief cause confusion and result in a denial of equal protection and due process under the XIV Amendment to the United States Constitution by the Arkansas Court of Appeals and Arkansas Supreme Court by refusing to accept Danny Tribble and David Tribble's appeal from judgment in the Circuit Court of Baxter County, Arkansas?

Did the Arkansas Judiciary deny Appellants' equal protection by not allowing Appellants' timely request of 16 days to file, out of time, their abstract and brief after the judiciary was given 9½ years from filing of the complaint, 6½ years from filing the last amended complaint, required for the Circuit Court of Baxter County, Arkansas to rule adverse to their claims?

PARTIES TO THE PROCEEDING

The parties to the proceeding in the Arkansas Court of Appeals, Division I, and Arkansas Supreme Court were Petitioners David Tribble and Danny Tribble, and Respondents First Security Bank, Jason Tribble and the State of Arkansas.

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PETITION FOR A WRIT OF CERTIORARI

David Tribble and Danny Tribble petition for a writ of certiorari to review the denial of the Arkansas Court of Appeals, and affirmation by the Arkansas Supreme Court, to review the judgment of the Baxter County, Arkansas Circuit Court in this case.

OPINIONS BELOW

On January 22, 2020, Appellants' motion for more time to correct abstract and brief was denied by the Arkansas Court of Appeals. **App. 50.**

On February 12, 2020, the Arkansas Court of Appeals denied Appellants' motion to file a belated brief. **App. 51.**

On March 19, 2020, the Supreme Court of Arkansas denied Appellants' motion for rule on the clerk (to file Appellants' petition for review). **App. 52.** This court has jurisdiction under 28 U.S.C. § 1257, having timely filed this Petition for a Writ of Certiorari within 150 days of the Arkansas Supreme Court's judgment.

JURISDICTION

On January 22, 2020, Appellants' motion for more time to correct abstract and brief was denied by the Arkansas Court of Appeals.

On February 12, 2020, the Arkansas Court of Appeals denied Appellants' motion to file a belated brief.

On March 19, 2020, the Supreme Court of Arkansas denied appellants' motion for rule on the clerk (to file appellants' petition for review). This court has jurisdiction under 28 U.S.C. § 1257.

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution, Amendment XIV § 1:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

A. Grounds For Appeal.

Pursuant to the Constitution, the nature of the judicial branch does not make laws; it does not enforce laws; it resolves disputes. Real live “cases or controversies” is what the Constitution says.

A citizen is permitted to sue someone, i.e., to use the judicial branch only when he or she has been harmed by someone who is violating the law and needs the court to help him or her out (to grant relief), due process.

Equal protection refers to the idea that a governmental body may not deny people equal protection of its governing laws. The governing body state must treat an individual in the same manner as others in similar conditions and circumstances.

The Equal Protection Clause is a clause from the text of the United States Constitution, Amendment XIV. The clause, which took effect in 1868, provides “nor shall any state deny to any person within its jurisdiction the equal protection of the laws.” A primary motivation for this clause was to validate the equality provisions contained in the Civil Rights Act of 1866, which guaranteed that all citizens would have equal protection by law.

The meaning of the Equal Protection Clause inspired the well-known phrase “Equal Justice Under the Law.” the basis for *Brown v. Board of Education* (1954); *Gitlow v. New York* (08 June 1925); *Mapp v. Ohio* (19 June 1961); *Gideon v. Wainwright* (18 March 1963); *Griswold v. Connecticut* (07 June 1965); *Regents of the University of Calif. v. Bakke* (26 June 1978)

Civil defense attorneys know it is axiomatic if a case never goes to trial their client never has to pay damages. Some parties have a guardian angel and never go to trial.

B. After 9½ Years From The Complaint Filed, 6½ Years From Appellants’ Last Amended Complaint, Neither The Arkansas Court Of Appeals Nor Arkansas Supreme Court Would Resolve Appellants’ Claim.

The complaint was filed in 2010. The amended complaint was filed in 2013.

Piecemeal judgment was entered on January 19, 2017 and filed January 30, 2017, failing to rule on Appellants’ claims based on a Trust, but granting First Security Bank summary judgment and entering a foreclosure decree. (The Order states judgment was entered January 19, 2016, but is believed to be a typographical error).

Notice of appeal was filed on February 6, 2017.

The Arkansas Court of Appeals returned the matter to the Circuit Court of Baxter County, Arkansas. **App. 8.** The Arkansas Supreme Court appointed a different judge when the fifth sitting judge (previously appointed by the Arkansas Supreme Court) recused rather than render a full decision.

On May 20, 2019, the sixth sitting judge in the Circuit Court of Baxter County, Arkansas entered judgment denying Appellants David Tribble and Danny Tribble’s motion for summary judgment and granted First Security Bank’s motion for summary judgment and entered a foreclosure decree. **App. 10.**

Notice of appeal was filed on May 29, 2019. **App. 41.**

On January 22, 2020, Appellants' motion for more time to correct abstract and brief was denied by the Arkansas Court of Appeals. **App. 50.**

On February 12, 2020, the Arkansas Court of Appeals denied Appellants' motion to file a belated brief. **App. 51.**

David Tribble and Danny Tribble's petition for review by the Supreme Court of Arkansas was tendered on February 20, 2020, but was refused by the clerk.

On February 21, 2020, the Arkansas Supreme Court Chief Deputy Clerk refused to accept Appellants' petition for review, stating, "...our Rules do not allow for a petition for review off a decision on a motion, other than a dismissal, from the Court of Appeals." **App. 49.**

On March 19, 2020, the Supreme Court of Arkansas denied Appellants' motion for rule on the clerk (to file Appellants' petition for review). This court has jurisdiction under 28 U.S.C. § 1257. **App. 52.**

A vested remainder is a present interest that cannot be defeated by any contingency. Arkansas trust law embraces the Settlor's intent. A Trust becomes irrevocable, with the distributees' interest vesting with the death of a settlor. A Trustee, while holding power of attorney for a Settlor has a fiduciary duty.

A bank is put on notice when the same attorney who drafted a Trust acts as closing agent for the bank, for disbursement of funds from a mortgage on the same property described in the Trust.

I. REVIEW OF PROCEDURE IN STATE COURT

This is an appeal from the Arkansas Court of Appeals' failure to accept Appellants' abstract and brief, after instructions by the Appellate Review Attorney for the Office of the Clerk of the Arkansas Supreme Court and Court of Appeals.

Four sitting circuit judges in the Baxter County, Arkansas Circuit Court, 14th Circuit, would recuse rather than rule on the issues. Only after a retired judge, appointed by the Arkansas Supreme Court, did a judge make a piecemeal ruling in favor of First Security Bank, ignoring Appellants' claim as heirs, distributees, pursuant to their parents' family Trust, the Tribble Family Trust ("Trust"). The fifth judge would recuse rather than rule on Appellants' claims under the Trust, after the matter was returned by the Arkansas Court of Appeals.

After nine and one-half (9½) years from the Complaint filed, six and one-half (6½) years from the last amended complaint, and six (6) different judges, the Circuit Court of Baxter County, Arkansas, entered a decision denying Appellants' claims as heirs and distributees of the Trust, and granted First Security Bank's motion for summary judgment and foreclosure on the Settlers' residence, property originally included in the Trust. The same attorney who drafted the Trust acted as closing agent for First Security Bank on a mortgage on the Settlers' residence, the same property originally described in the Trust. The court erred as a matter of law when it justified this decision based on affidavits created ten (10) years after the Complaint was filed, contradicting the attorney who drew the Trust.

Because of the prior appeal from a piecemeal judgment, *David Tribble, et al. v. First Security Bank, et al.*, Arkansas Court of Appeals, Case No. CV-17-376, and instructions by the Appellate Review Attorney for the Office of the Clerk of the Arkansas Supreme Court and Court of Appeals, there was confusion regarding preparation of Appellants' abstract and brief.

In Arkansas, an appellant from an adverse decision in the State circuit court, after notice of appeal, first submits his appellant's abstract and brief to the clerk for the Arkansas Court of Appeals and Arkansas Supreme Court. If the clerk accepts the appellant's abstract and brief, appellant's abstract and brief is filed for consideration by the Arkansas Court of Appeals or

Arkansas Supreme Court. If the clerk rejects appellants' abstract and brief, appellant is usually given a number of days to correct deficiencies, or appellant may file a motion for rule on the clerk, asking the respective court to order the clerk to accept and file the abstract and brief. The clerk is the gatekeeper with oversight by the Arkansas Court of Appeals and Arkansas Supreme Court.

II. APPELLATE PROCEDURE

If the appellant is denied the motion for rule on the clerk, the appellant may petition the Arkansas Supreme Court for review. Thus, it is apparent that the clerk of the court is the gatekeeper with ultimate authority held by the court: thus, advice from the clerk of the court regarding appellant's abstract and brief is crucial for acceptance by the clerk before consideration by the court.

Because of a prior piecemeal judgment and appeal the undersigned relied on instructions from the Appellate Review Attorney for the Office of the Clerk of the Arkansas Supreme Court and Court of Appeals. After the undersigned timely submitted Appellants' Abstract and Brief based on the two records, the Appellate Review Attorney for the court advised the Addendum needed to be condensed. This confusion resulted in the Abstract and Brief, which was originally submitted timely, being submitted out of time in an attempt to satisfy requirements of the Appellate Review Attorney for the Office of the Clerk of the Arkansas Court of Appeals and Arkansas Supreme Court because the court did not approve a motion to file out of time submitted contemporaneously with the corrected Abstract and Brief. The undersigned is a sole practitioner with one (1) secretary, his wife, who has medical problems. The undersigned respectfully requested the court enter an order granting leave to file a belated Appellants' Brief to avoid denial of due process guaranteed by the United States Constitution and Arkansas Constitution.

A corrected brief was submitted sixteen (16) days after the due date of the last continuance.

A. Colloquy Between Counsel For Appellants And Appellate Review Attorney For Office Of The Clerk Of The Arkansas Court Of Appeals And Arkansas Supreme Court.

On August 28, 2019, counsel for appellants sent the following email to Kyle Burton, Appellate Review Attorney for Office of the Clerk of the Arkansas Court of Appeals and Arkansas Supreme Court:

"Kyle - The matter of *Tribble, et al. v. Tribble, et al.*, No. CV-19-603, was previously appealed but returned to Baxter County for a new judge to rule on remaining issues. I am asking for suggestions on how to prepare Appellants' Abstract and Brief considering the two records, the previous record lodged with the court and the new record." **App. 44.**

On August 28, 2019, Kyle Burton replied with the following advice:

"Larry - You will likely need to use both appeal records to prepare your abstract, brief, and addendum so that it includes all necessary and relevant info and documents. When you cite to records, you will need some way to distinguish between the prior appeal record and the current appeal record. A lot of attorneys will use the abbreviations "1R" and "2R" to distinguish citations to the two different records. For example, if you intend to cite page 50 of the prior appeal record, you could use "1R 50" to refer to that page. If you are citing to page 50 of the current appeal record, you could cite it as "2R 50." You would probably also need to include some explanation in the table of contents telling the court that references to "1R" are references to the prior appeal record case no. CV-17-376 and that those to "2R" are references to the current record in case no. CV-19-603. **App. 43.**

On December 31, 2019, Appellants timely submitted their Abstract and Brief, albeit, without hyperlinks from the table of contents to identified sections required; Appellants also filed a Motion for More Time to Correct Abstract and Brief. (Unfortunately, telephone conversations between the undersigned and the Appellate Review Attorney for Office of the Clerk of the Arkansas Court of Appeals and Arkansas Supreme Court were not recorded.

On January 16, 2020, appellants' counsel received the following email from Kyle Burton:

"Larry - Today, two briefs were submitted to eFlex in the Tribble case. The first one was the brief for the most recent appeal, CV-19-603. The second brief submitted was a copy of the brief submitted in the prior appeal of this matter, CV-17-376. Generally, parties are not permitted to refile the briefs from a prior appeal

in the subsequent appeal case. Therefore, Bobby and I reached out to Terry because we knew she was helping you put together the brief.”

“While parties are generally not permitted to refile briefs from old appeals, it sometimes it is necessary to include in the latter appeal’s abstract and addendum information from the prior appeal record. I believe that this may be the source of confusion that led to the attempt to file the brief from the prior appeal.”

“In any event, in discussing the matter with Terry, the idea was floated of taking the addendum from the prior appeal and tacking it on to the end of the brief in the current appeal. Because Terry may have had some technical difficulties in doing that, we offered to add the old addendum to the end of the new appeal brief. See attached. If you would like to tender the brief in that form, please efile it via efilex.”

“I note that this may not have resolved all of the issues with the brief, such as the fact that the pagination of the addendum starts at page one, and then starts over again at page one approximately 500 pages later. There may be other issues with it as well, but we think it is probably close enough that the clerk’s office could approve it for filing if the court grants the pending motions for an extension of time. Of course, however, it is possible that the court could order rebriefing at a later time.” **App. 46.**

On January 17, 2020, Terry Jones, retained by Appellants’ attorney at the recommendation of Kyle Burton to insert hyperlinks and page numbers in Appellants’ brief, replied to Kyle Burton with the following email:

“Thank you for all your help Kyle. I will get that efiled today.” **App. 46.**

On January 17, 2020, Kyle Burton replied to Terry Jones with the following email:

“You are welcome. Will be on the lookout for it.” **App. 48.**

On February 21, 2020, after giving the prior advice, the clerk of the Arkansas Supreme Court refused to accept Appellants’ Petition for Review based on:

“Yesterday, you submitted a petition for review for filing in CV-19-603. David Tribble and Danny Tribble v. First Security Bank. I am unable to accept the petition for review for filing as our Rules do not allow for a petition for review off of a decision on a motion other than a dismissal from the Court of Appeals. You may file a motion for rule on the clerk or some other type of motion requesting permission to file the petition for review with the Supreme Court. Should the Supreme Court grant that motion, then I would be able to file the petition for review

and submit it to the Supreme Court. I am rejecting the electronic submission of the petition for review in the electronic filing system this morning.” **App. 49.**

B. Review Of Time Line.

On July 30, 2019, Appellants were given notice that an Appellants’ brief was due on September 8, 2019.

The Appellants filed for and were granted four extensions:

- 1) Seven (7) day extension to September 15, 2019
- 2) Forty-seven (47) day extension to November 1, 2019
- 3) Thirty (30) day extension to December 1, 2019 and
- 4) Thirty (30) day extension to December 31, 2019

On December 31, 2019, Appellants filed a nonconforming brief, due to confusion based on advice from the Arkansas Supreme Court, along with a motion for more time to correct abstract and brief. The brief lacked required hyperlinks, etc.

The Appellants’ fifth motion for extension of time was denied on January 22, 2020.

The Appellants had a total of 154 days to file their brief, approved by the Arkansas Court of Appeals, but were not granted the last request for seventeen (17) additional days.

On February 12, 2020, the Arkansas Court of Appeals denied Appellants’ due process and equal protection request by denying Appellants’ Motion for Order Granting Leave to File Belated Appellants’ Brief, and denied Appellants’ Supplement to Motion for Order Granting Leave to File Belated Appellants’ Brief.

C. Facts Of Appellants’ Case In State Court.

Appellants, David Tribble and Danny Tribble, are the two older children of Freeman Tribble and Patsy F. Tribble, deceased, and beneficiaries of the Tribble Family Trust, dated December 5, 2005. A third party, Fredia Finch, sister to David, Danny and Jason Tribble, survived

her mother, Patsy Tribble, thus, her interest vested as well. In that regard, her heir's interest should be protected as well.

Freeman Tribble and his wife, Patsy F. Tribble, of Baxter County, Arkansas, named themselves as both Settlers and Trustees in the Freeman Family Trust. **App. 15.** Freeman Tribble and Patsy F. Tribble acted on the legal advice of their attorney, Mark D. Carney.

1. A Trust, Constructive or Implied, Was Created By Law.

Based on the Settlers' intent and direction attorney, Mark Carney, intended to put all of the Tribble's property into the Tribble Family Trust, created and signed December 5, 2005. The first paragraph of the Trust states, in essence:

"the Settlers . . . desire to create a trust for the purpose of keeping their estate out of probate, and to that extent, any properties either now or hereinafter conveyed to the trust shall be referred to as the "Trust Estate" . . ." **App. 15.**

2. Colloquy From Deposition Of Attorney Mark Carney.

MR. STEELE: Q. Okay. Well, the--the Trust says, all of my property.

MR. CARNEY: A. The--the intent was to put all their property into the Trust. **App. 5.**

MR. STEELE: Q. The intent was to put all the property that the Tribbles, Mr. Freeman Tribble and his wife, owned at the time they made the Trust.

MR. CARNEY: A. Right, to avoid a probate.

MR. CARNEY: A. I've—I've known the Tribbles for 15 years.

MR. STEELE: Q. Yes. And you've been, as far as you know, their only lawyer in dealing with real estate and things of that nature?

MR. CARNEY: A. As far as I know. **App. 6.**

Following the death of his wife, Patsy Tribble, on August 12, 2006, Freeman Tribble would sell his residence to his younger son, Jason Tribble. Jason Tribble would convert the money

Freeman Tribble received from the mortgage. Attorney Mark Carney acted as closing agent for First Security Bank.

Appellants filed their Complaint in 2010, and Amended Complaint in 2013. Because of the parties involved and issues, no judge in the Fourteenth Judicial District would hear the case. Eventually, a retired judge was appointed by the Arkansas Supreme Court to hear the case, making a piece meal ruling forcing Appellants to appeal the judge's partial ruling.

Appellants appealed the circuit court's order granting summary judgment and entering a foreclosure decree in favor of First Security Bank. The Arkansas Court of Appeals dismissed the matter (without prejudice) for lack of a final, appealable order, stating:

"There is no final order with respect to (1) Danny and David's complaint against Jason and Jennifer Tribble and (2) Jason and Jennifer's counterclaim against Danny and David. An order is not final that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties. *Ver Weire v. CNA Fin. Corp.*, Ark. App. 353, 213 S.W.3d 646 (2005). Arkansas Rule of Civil Procedure 54(b) allows a circuit court, when it finds no just reason for delaying an appeal, to direct entry of a final judgment as to fewer than all the claims or parties by executing a certification of final judgment. *Id.* There is no Rule 54(b) certificate. Consequently, we lack jurisdiction over this appeal and dismiss it without prejudice." **App. 8.**

The matter was returned to Baxter County Circuit Court where another judge was appointed by the Arkansas Supreme Court.

On May 20, 2019, after more than nine and one-half (9½) years, the matter was determined contra to Appellants' claims by the second judge appointed by the Supreme Court.

Appellants timely appealed and requested several extensions of time to file their Brief. On December 31, 2019, Appellants submitted their Brief and Addendum.

III. REASONS FOR GRANTING THE PETITION

Analyzing a claim for equal protection and due process presents no great challenge. This case presents the Court with the opportunity to clarify how the Constitution's equal protection and due process guarantee applies under these facts.

Common logic, as a class, Appellants have been held to a much higher standard than the judiciary, taking nine and one-half (9½) years to rule. Not only have Appellants been denied due process, denied having their dispute settled, but denied equal protection pursuant to the 14th Amendment to the United States Constitution and the Arkansas Constitution.

Appellants filed their Complaint in 2010, and Amended Complaint in 2013.

Because of the parties involved and issues, no judge in the Fourteenth Judicial District of the State of Arkansas would hear the case. Eventually, a retired judge, a fifth judge, was appointed by the Arkansas Supreme Court to hear the case. Even this judge refused to rule on the crucial issues, but made a piecemeal ruling forcing Appellants to appeal the judge's partial ruling. When the matter was return to Baxter County, Arkansas Circuit Court because of the piecemeal decision, the fifth judge recused rather than rule on Appellants' claims based on their father and mother's Trust.

After the matter was returned to Baxter County, Arkansas Circuit Court a sixth judge was appointed by the Arkansas Supreme Court. On May 20, 2019, after more than nine and one-half (9½) years, the matter was determined contra to Appellants' claims by the judge appointed by the Arkansas Supreme Court.

IV. LAW AND ARGUMENT

A. Summary of the Argument

The lower court held material facts are not disputed. The lower court ignored Ark. Code Ann. § 28-73-401 and Ark. Code Ann. § 28-73-402, the law at the creation of the Tribble Family Trust (“Trust”) made by Freeman and Patsy Tribble.

The lower court erred in failing to discuss/consider the following facts and law in reaching its decisions.

1. A Constructive Trust Or Implied Trust Was Created When The First Paragraph Of The Trust States, “The Settlers . . . Desire To Create A Trust For The Purpose Of Keeping Their Estate Out Of Probate, And To That Extent, Any Properties Either Now Or Hereinafter Conveyed To The Trust Shall Be Referred To As The Trust Estate” And The Attorney Drafting The Trust Stated, That Settlers Intent Was To Put All The Property Into The Trust That Freeman And Patsy Tribble Owned At The Time They Make the Trust. To Avoid Probate.

Appellants were named beneficiaries in the Trust.

Ark. Code Ann. § 28-73-401. Methods Of Creating A Trust.

A trust may be created by:

- (2) declaration by owner of property that the owner holds identifiable property as trustee.

Ark. Code Ann. § 28-73-402. Requirements For Creation.

- (a) a trust is created only if:
 - (1) the settlor has capacity to create a trust;
 - (2) the settlor indicates an intention to create the trust;
 - (3) the trust has a definite beneficiary;
 - (4) the trustee has duties to perform; and
 - (5) the same person is not the sole trustee and sole beneficiary.
- (b) a beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities;

- (c) a power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property had the power not been conferred.
- 2. The Constructive Trust Became Irrevocable Upon The Death Of One Of The Settlers, Patsy F. Tribble, When Freeman Tribble And His Wife, Patsy F. Tribble, Had Named Themselves As Both Settlers And Trustee In The Tribble Family Trust, I.E., A Vested Remainder Is A Present Interest That Cannot Be Defeated By Any Contingency.

The lower court acknowledges in its Order at ¶ 9, “Patsy Tribble died on August 5, 2006, leaving Freeman Tribble the surviving settlor and trustee of the Freeman Family Trust and Freeman became sole owner by survivorship of jointly owned real estate previously deeded to the trust.” **App. 12.** This was error. The Tribble residence was included in the Trust, (as part of all the property the Tribble’s owned), thus, it could not revert back to Freeman Tribble.

Freeman Tribble’s First Amendment to the Tribble Family Trust, made literally on his deathbed, is invalid because Jason Tribble is the sole Trustee and sole beneficiary, in violation of Ark. Code Ann. § 28-73-402(a)(3).

- 3. The Lower Court Failed To Consider Freeman Tribble’s Mental Capacity, Jason Tribble’s Undue Influence, And Violation Of His Fiduciary Duty.

This is corroborated by Jason and Jennifer Tribble’s testimony, medical records, and Jason Tribble being named a Successor Trustee.

- 4. The Lower Court Failed To Consider Jason Tribble’s Unjust Enrichment.

Jason Tribble converted the money Freeman Tribble received for the sale of his residence to Jason Tribble.

- 5. Under The Facts, First Security Bank Was Put On Notice Of Appellants, David Tribble’s And Danny Tribble’s, Claimed Constructive Trust And/Or Implied Trust When Attorney Mark Carnex, Who Drafted the Trust, Acted As Closing Agent For First Security Bank Regarding The Same Property Subject To The Tribble Family Trust.

B. Law and Argument.

The Trust provides, in part, Article IV -- Powers Reserved to Settlers, gives the Settlers the right to change the Trust. These powers were reserved to Settlers (plural). Patsy Tribble died on August 12, 2006. Appellants', beneficiaries, interest vested upon their mother, Patsy Tribble's death on August 12, 2006. *Covenant Presbytery v. First Baptist Church*, 2016 Ark.138.

The lower court failed to recognize the legal consequences of Patsy Tribble's death. Appellants are vested remainder beneficiaries. The Arkansas Trust Code defines "beneficiary", in part, as a person that "has a present or future beneficial interest in a trust, vested or contingent. Ark. Code Ann. § 28-73-103(3)(a), Acts of 2005, Act 1031, § 1, eff. Aug. 12, 2005.

On July 27, 2007, after his wife, Patsy Tribble's, death, Freeman Tribble sold his residence (the property meant to be included in their Trust) to his youngest son, Jason Tribble. Jason would convert the monies from this sale to his own benefit. This transfer was invalid because it violated the intent of Patsy Tribble and yes, Freeman Tribble, when the Trust was made. *Covenant Presbytery, supra*.

For the sake of argument, Jason Tribble was named as a Successor Trustee. Jason Tribble would obtain Durable Power of Attorney for his father on November 3, 2006. Shortly before his death, Freeman Tribble would amend the original Tribble Family Trust on April 14, 2010 and make a Will, basically leaving everything to his youngest son, Jason Tribble. Inexplicably, Appellees did not include the Will in any of their pleadings.

This case presents the Court with the opportunity to clarify how the Constitution's due process and equal protection requirement applies to a State's judiciary during the trial and appellate procedure regarding a citizen's participation.

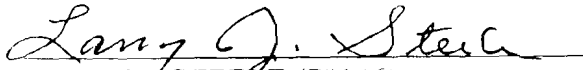
No other State has practiced such an egregious disparity between its judiciary, 6½ years from the last amended complaint, and its citizens seeking due process (settlement) of claims and disputes, 16 days extension of time to correct errors in Appellants' brief.

V. CONCLUSION

For the foregoing reasons, Appellants respectfully request that this Court issue a writ of certiorari to review the judgment of the Arkansas Court of Appeals.

Respectfully submitted,

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IN THE CIRCUIT COURT OF BAXTER COUNTY, ARKANSAS
CIVIL DIVISION

DAVID TRIBBLE, DANNY TRIBBLE,
and FREDIA FINCH

PLAINTIFFS

Vs.

No. CV-2010-321-1

JASON TRIBBLE and JENNIFER TRIBBLE

DEFENDANTS

* * * * *

DEPOSITION OF

MARK CARNEY

AUGUST 15, 2011

* * * * *

ACCUPROMPT REPORTING SERVICE

Robert Kieninger

Certified Court Reporter

15 CR 917

Brookland, AR 72417

(870) 931-4619

App1

COPY

"Exhibit C"

- 1 A. I'm not sure what piece of property it is or--
- 2 Q. Sure.
- 3 A. --what it represents.
- 4 Q. But it--Deeds--
- 5 A. It is what it is.
- 6 Q. Sure. And who did you represent when you drew the Deed?
- 7 A. Probably Freeman and Patsy.
- 8 Q. Okay.
- 9 A. I'm sure Freeman and Patsy.
- 10 Q. Okay. And the second document, Declaration of the Tribble
- 11 Family Trust. I ask the Court Reporter to mark it.
- 12 (Thereupon, Plaintiffs' Exhibit No. 2,
- 13 Declaration of the Tribble Family Trust, was marked
- 14 for identification.)
- 15 A. May I ask what piece of property that is?
- 16 MR. STEELE CONTINUING:
- 17 Q. It's, to be honest with you, I'm not really sure other than
- 18 that it was deeded to them in the year 2000. I--I--I'm not really
- 19 sure which one it is.
- 20 A. Okay. And I--and I say I prepared it, but my firm prepared
- 21 it.
- 22 Q. Sure.
- 23 A. Okay.
- 24 Q. But--but you've got your stamp on the cover page.
- 25 A. Right. That's correct.

- 1 Q. And I'll make that an--an exhibit to your deposition. And
2 Exhibit No. 2 is the Tribble Family Trust?
- 3 A. Yes, I agree with that, in 2005.
- 4 Q. Okay. And were Mr. And Mrs. Tribble, Freeman Tribble and
5 Patsy Tribble, your clients at the time?
- 6 A. Yes.
- 7 Q. Okay. And do you recognize their signatures, and I'm--I'm
8 sure you were present when--when they signed--
- 9 A. Oh--oh, yes.
- 10 Q. --signed the Trust, and you knew the--you knew Freeman and
11 Patsy. So, I mean, there's no question about--
- 12 A. Oh, yeah. My secretary notarized it.
- 13 Q. Sure. And it refers--the Trust refers to Schedule A, but I
14 don't have a copy of Schedule A. Do you have a copy of Schedule A,
15 which is a description of the property?
- 16 A. I have Schedule A with change as their assets changed. With
17 a cursory look, I do not but, I should have a copy of it somewhere.
18 I'll look closer later. But if I do find it, I'll certainly be
19 happy to provide it.
- 20 Q. Do you remember preparing a Schedule A?
- 21 A. Yeah. We do with every Trust.
- 22 Q. Do you know--
- 23 A. For the initial funding of the Trust.
- 24 Q. Sure. And do you know if you would've had that on your
25 computer or something?

1 A. I don't know if it would still be there. But I'm--I'll
2 certainly see what I can find out.

3 Q. Okay.

4 A. I just don't see it initially in my file right now. But I've
5 got two or three files on--on the--the Tribbles, and I will look in
6 each one of them.

7 Q. Okay. Do you think we might be able to look for that before
8 we leave today?

9 A. I can try.

10 Q. Okay. Do you remember--do you remember the property changing
11 from the time that you initially made the Trust for them?

12 A. Changing?

13 Q. A Schedule A. In other words, you said property was added
14 or taken away from some--

15 A. No. I--what I meant was when--when you create a Trust, you
16 put your initial funding into the Trust. And then if they buy and
17 sell property, then your Schedule A doesn't change it's just
18 whatever's titled in the Trust.

19 Q. Right. And do you--

20 A. So, I--I--I don't keep up with their day-to-day actions. If
21 they bought other property, I'm not aware of that--

22 Q. Right.

23 A. --and I wouldn't--wouldn't've been privy to that. They may
24 have come to me if--if they would have, but they would--sure
25 wouldn't've had to.

APP4

1 Q. Do you remember what property was included in the Schedule
2 A at the time you made the Trust, by any chance?

3 A. I can sure tell you what document I prepared. Looks like
4 there was a--what was the date of the Trust, 15--

5 Q. December the 5th, 2005.

6 A. Okay. Looks like there was a half interest in a piece of
7 real estate here in Baxter County. There was--that's the original
8 Deed. And, again, I wouldn't know what property that was.

9 Q. Have--have you got Deeds of property that they owned at the
10 time that they made the Trust?

11 A. Yes.

12 Q. And does--does it indicate that you funded the Trust with
13 that property that--that you made a Deed to putting the property
14 over into the name of the Trust?

15 A. Got this one. I'd have to run a Title search. But I've got
16 this--at the time they funded the Trust they owned a piece of
17 property with Danny and Sharon Tribble, and that--that's why a half
18 interest was funded. Again, this has been several years ago.

19 Q. Okay. Do you have a problem when we get through with the--
20 the deposition of making a copy of those properties?

21 A. Yeah. Looks like that's the only one I--that was funded
22 initially into the Trust. Now, there could be another file that I
23 have that might have.

24 Q. Okay. Well, the--the Trust says, all of my property.

25 A. The--the intent was to put all their property into the Trust.

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ARKANSAS COURT OF APPEALS

DIVISION I
No. CV-17-376

Opinion Delivered March 7, 2018

DAVID TRIBBLE AND DANNY
TRIBBLE

APPELLANTS

APPEAL FROM THE BAXTER
COUNTY CIRCUIT COURT
[NO. 03CV-10-321]

V.

HONORABLE ROBERT
MCCORKINDALE, JUDGE

FIRST SECURITY BANK, JASON
TRIBBLE, AND JENNIFER TRIBBLE

APPELLEES

DISMISSED WITHOUT PREJUDICE

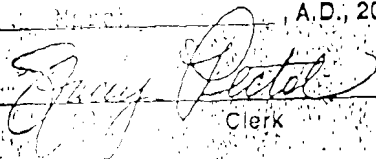
BRANDON J. HARRISON, Judge

David and Danny Tribble appeal the circuit court's order granting summary judgment and entering a foreclosure decree in favor of First Security Bank. We dismiss for lack of a final, appealable order. There is no final order with respect to (1) Danny and David's complaint against Jason and Jennifer Tribble and (2) Jason and Jennifer's counterclaim against Danny and David. An order is not final that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties. *Ver Weire v. CNA Fin. Corp.*, 92 Ark. App. 353, 213 S.W.3d 646 (2005). Arkansas Rule of Civil Procedure 54(b) allows a circuit court, when it finds no just reason for delaying an appeal, to direct entry of a final judgment as to fewer than all the claims or parties by executing a certification of final judgment. *Id.* There is no Rule 54(b) certificate. Consequently, we lack jurisdiction over this appeal and dismiss it without prejudice.

Dismissed without prejudice.

KLAPPENBACH and BROWN, JJ., agree.

IN TESTIMONY, That the above is a true copy of the opinion of said Court of Appeals rendered in the case therein stated,
I, Stacey Pectol, Clerk of said Court of Appeals, hereunto set my hand and affix the Seal of said Court of Appeals, at my
office in the City of Little Rock this 27th day of March, A.D., 20 18


Clerk

D.C.

**IN THE CIRCUIT COURT OF BAXTER COUNTY, ARKANSAS
CIVIL DIVISION**

**DAVID TRIBBLE AND
DANNY TRIBBLE**

PLAINTIFFS

VS.

NO. CV 2010-321-1

**JASON TRIBBLE AND
JENNIFER TRIBBLE**

DEFENDANTS

FIRST SECURITY BANK

DEFENDANT

**ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND
ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Before the court are competing Motions for Summary Judgment filed on behalf of the Plaintiffs, David Tribble and Dany Tribble and the Defendants, Jason Tribble and Jennifer Tribble, the matter having been submitted to the court on the pleadings, record, depositions, documents, briefs and supporting affidavits from such evidence the Court finds as follows:

1. This Court is vested with the proper jurisdiction and venue to adjudicate this matter.
2. That certain material facts are undisputed and the remaining party Plaintiffs, Jason Tribble and Jennifer Tribble are entitled to judgment of dismissal as a matter of law.

3. The Court has previously heard and hereby denies a Motion of Summary Judgment filed by Plaintiffs, David Tribble and Danny Tribble, on May 15, 2018 and amended on June 8, 2018.

4. The Court has also previously granted summary judgment in favor of First Security Bank and ordered foreclosure relating to the property at issue in this case, and denied Plaintiffs' Motion for Summary Judgment against First Security Bank.

5. An appeal was taken by plaintiff to the Arkansas Court of Appeals from the Court's previous ruling granting foreclosure and denying Plaintiffs' requested relief against First Security Bank. Plaintiffs' appeal was dismissed by the Arkansas Court of Appeals without prejudice, given that other claims for relief remained and that First Security Bank's Judgment was therefore not a final judgment.

6. This case involves the alleged claim by Plaintiffs that they are entitled to some or all of the property that was sold or placed in trust by Freeman Tribble and wife, Patsy Tribble, between the year 2000 and the present. The trust involved in this case was set up on December 5, 2005 in writing and a contemporary Memorandum executed. These documents are attached hereto and made a part hereof as Exhibits. A (6 pages) and B(1 page), respectively.

7. The only property deeded to the Trustees the Tribble Family Trust was by deed from Freeman Tribble and Patsy Tribble dated December 14, 2005, attached hereto and made a part hereof as Exhibit C. (2 pages)

8. The December 5, 2005 trust was amended by Freeman Tribble, Setlor as evidenced by the First Amendment to The Tribble Family Trust, which expressed Freeman Tribble's intent to change the beneficiaries of the residual

real estate and specific personal property from Freeman Tribble's four children to Jason Tribble. The First Amendment to the Tribble Family Trust is attached hereto and made a part hereof as Exhibit D. (3 pages)

9. **Patsy Tribble died on August 5, 2006, leaving Freeman Tribble as the sole surviving settler and trustee of the Freeman Family Trust. Freeman Tribble became sole owner by survivorship of jointly owned real estate previously deeded to the trust.**

10. **Freeman Tribble and Patsy Tribble deeded certain property to Jason Tribble and his then wife, Melissa Tribble. This real property was never a part of the trust. Said deed is attached and made a part hereof as Exhibit E. (1 page)**

11. **On August, 22, 2002, Freeman Tribble and Patsy Tribble deeded certain property which was never placed in the Family Trust to Danny Tribble, said deed is attached hereto and made a part hereof as Exhibit F. (2 pages)**

12. **After Patsy Tribble's passing, Freeman deeded additional real property which had never been deeded to the Tribble Family Trust to Jason Tribble. Said deed dated and filed on July 27, 2007, is attached hereto and made a part hereof as Exhibit G. (2 pages)**

13. **On October 28, 2008, Freeman Tribble, as Trustee, deeded certain real estate to Austin Exteriors Inc. as shown by attached deed made a part hereof as Exhibit H. (2 pages)**

14. **The Court has taken notice of the affidavits of Mark Carney, Rebecca Stone, Jennifer Tribble, Jay T. Westcoat and Kathy Parker attesting that Freeman Tribble knew what he was doing when he signed the documents hereinabove**

mentioned and did not appear to be mentally impaired on those occasions and other occasions. Said affidavits are attached hereto and made a part hereof collectively as Exhibit I. (7 pages)

15. Plaintiffs, while contending undue influence by Defendants, Jason Tribble and Jennifer Tribble and the mental incapacity of Freeman Tribble, have failed to meet proof with proof on those issues or to present any other credible evidence tending to prove undue influence or mental incapacity.

16. The Court finds that Freeman Tribble was at all times pertinent to this matter presumed to be competent.

17. The Defendants' contention and proof that someone else managed his medications which he otherwise sometimes forgot to take is not sufficient to create a fact issue relating to Freeman Tribble's competency.

18. There is no proof that Freeman Tribble appeared to be impaired by any medication nor any medical information which would even raise a question as to his competency. Nor is there any proffered evidence of any undue influence by Jason Tribble or Jennifer Tribble.

19. It was clearly the intent of the testator, Freeman Tribble, for Jason Tribble to be his sole beneficiary and end up with all of his property at the time of his death.

20. The trust documents and the Arkansas Trust Code make it clear that Freeman Tribble became the surviving Settlor and Trustee when Patsy Tribble died. The amendments made by Freeman Tribble to the Tribble Family Trust were valid and were made during a time when he was competent.

21. **Jason Tribble became the ultimate and sole beneficiary of his father, Freeman Tribble.**

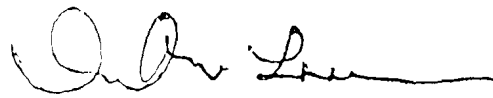
22. **All of the deed transactions shown on the attached documents were valid, including the transfer from Freeman Tribble as Trustee of the Tribble Family Trust to Jason Tribble.**

23. **The Defendants' Motion for Summary Judgment should be and is hereby granted.**

24. **Any and all other issues have been resolved by virtue of the Court's previous ruling from which the appeal was taken and previous rulings by the Court as to subsequent other motions.**

25. **Plaintiffs' case and all claims asserted or assertible should be and are hereby dismissed with prejudice.**

IT IS SO ORDERED this 22 day of April, 2019.



Judge David N. Laser
Circuit Judge by Assignment

COPY

DECLARATION OF THE
TRIBBLE FAMILY TRUST

THIS TRUST INDENTURE made this 5th day of December, 2005, wherein
Freeman Tribble and Patsy F. Tribble, his wife, of Baxter County, Arkansas, being both
the Settlers and Trustees, desire to create a trust for the purpose of keeping their estate
out of probate, and to that extent, any properties either now or hereinafter conveyed to
the trust shall be referred to as the "Trust Estate" and all of the said properties shall be
managed, invested, and distributed pursuant to the terms of this trust declaration.

ARTICLE I

TRUST NAME

This Trust shall be known as the **TRIBBLE FAMILY TRUST**.

ARTICLE II

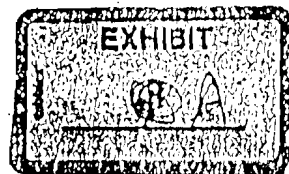
FUNDING OF TRUST

The Settlers have paid over, assigned, granted, conveyed, transferred and
delivered, and by this Agreement do hereby pay over, assign, grant, convey, transfer
and deliver unto the Trustees the property described in Schedule A, annexed hereto and
made a part hereof. The Trustees hereby acknowledge receipt and acceptance of the
above described property and agree to accept other properties which may be transferred
to them by the Settlers or others from time to time to be held in this Trust.

EXHIBIT

"A"

APP 15



ARTICLE III

DISTRIBUTION DURING LIFETIME OF SETTLORS

The Trustees shall hold, manage, sell, invest and reinvest the Trust Estate and shall collect the income, if any, therefrom. During the lifetime of the Settlers, the Trustees may pay to or apply for the benefit of the Settlers such sums from the income and principal of this Trust as in their sole discretion shall be necessary or advisable from time to time for the medical care, comfortable maintenance and welfare of the Settlers, taking into consideration to the extent the Trustees deem advisable, any other income or resources of the Settlers known to the Trustees.

ARTICLE IV

POWERS RESERVED TO SETTLORS

The Settlers may by signed instruments delivered to the Trustee: (1) withdraw property from this Trust in any amount and at any time upon giving reasonable notice in writing to the Trustees; (2) add other property to the Trust; (3) change the beneficiaries, their respective shares and the plan of distribution; (4) amend this Trust Agreement in any other respect; (5) revoke this trust in its entirety or any provision therein; provided, however, the duties or responsibilities of the Trustees shall not be enlarged without the Trustees' consent. However, any such modification or amendment must be in writing to be enforceable.

ARTICLE V

SUCCESSOR TRUSTEE

Upon the death, disability, or incompetency of either of the Trustees hereinabove designated, the survivor thereof shall remain as the sole Trustee, and any and all

powers enumerated herein shall be exercisable by the surviving Trustee alone. Upon the death, or upon the disability or incompetency of the last Trustee, under any of these events, then Jason Tribble is appointed as Successor Trustee. All powers enumerated hereinabove are hereby reserved to the Successor Trustee.

ARTICLE VI

DISABILITY OR INCOMPETENCY

No Trustee shall be authorized to serve because of the disability or incompetency of a Trustee herein unless the Trustee voluntarily consents to same, or if unable or unwilling to consent, a written determination of incompetency is made by two (2) physicians licensed to practice medicine in any state of the United States and not connected by business relationships with each other.

ARTICLE VII

SPENDTHRIFT CLAUSE

Each and every beneficiary of the trust created hereby is enjoined and restrained from anticipating, assigning, transferring, selling, or otherwise disposing of his or her interest in the estate, and is without power to do so, and no such anticipation, assignment, transfer, sale or other disposition shall be recognized by the Trustees, nor shall the same pass any right, title, or interest, if any, of the beneficiaries, and none of the interests of the beneficiaries shall be subject to the claims of creditors or other persons, bankruptcy proceedings, or the liabilities or obligations of any beneficiary.

ARTICLE VII

POWERS OF TRUSTEE

The Trustee of this trust shall have all the powers enumerated in Arkansas Code Annotated § 28-73-816 which may be independently exercised in such manner as the Trustees deem appropriate in the administration of this trust, without the necessity for court authorization or approval, and the preceding powers are hereby incorporated in this trust declaration by reference.

In addition to (or in furtherance of) the powers enumerated in the preceding paragraph, the Trustee shall have authority to independently exercise the following administrative powers:

- (1) To hold, retain, acquire or invest in any type of property without regard to legal limitations or investments, lack of diversification or risk.
- (2) To sell, exchange, dispose of, or grant options with respect to any property, for cash or credit, at public or private sale, and without security.
- (3) To mortgage, pledge, lease, or grant options with respect to any property, without being limited as to the terms or duration thereof.
- (4) To manage, insure, repair, improve, develop, subdivide, partition, alter, demolish, or abandon any property.
- (5) To borrow money for any purpose.
- (6) To hold securities in the name of a nominee or in bearer form.
- (7) To incorporate or transfer to a partnership any business or property and thereafter to be a stockholder or partner therein.
- (8) To vote or refrain from voting any stock or other securities in person or by proxy or pursuant to a voting trust agreement.
- (9) To exercise subscription and conversion rights and participate or refuse to participate in any type of corporate reorganization, liquidation or dissolution.
- (10) To settle, compromise, abandon, arbitrate or litigate any claim or obligation.
- (11) To renew, extend or modify any note, mortgage, bond, or other indebtedness.

(12) To employ legal counsel, accountants, brokers, advisors, managers and other persons and to pay their compensation and expenses.

(13) To allocate receipts and disbursement between income and principal, and to distribute in kind or partially in kind any property, in such manner as deemed equitable.

(14) To make or refrain from making equitable adjustments between the interest of any beneficiaries as a result of administrative or tax elections.

(15) To purchase any property from and to lend funds to the probate estates of the grantors and any other trust created by the grantor upon such terms and conditions as deemed advisable.

(16) In general, to exercise any additional powers in the management of the trust property which an individual owner of such property could exercise.

ARTICLE IX

DISTRIBUTION UPON DEATH OF SETTLORS

Upon the death of Freeman Tribble and Patsy F. Tribble, his wife, the remaining balance of the Trust estate shall be distributed as follows:

- 1) The Settlers reserve the right to make disposition of tangible personal property by attaching or associating with this Trust, subsequent to its execution, a written and dated statement and list signed by Settlers or in their handwriting designating the devisees of items of tangible property.
- 2) All household goods and furnishings shall be distributed to Jason Tribble.
- 3) The sum of ten thousand dollars (\$10,000) shall be distributed to Jason Tribble.
- 4) The Glasstron boat, 85hp motor and trailer shall be distributed to Jason Tribble.
- 5) The Honda 4-wheeler shall be distributed to Jason Tribble.

6) All the real, residue, and remainder of the estate shall be distributed equally to David Tribble, Danny Tribble, Freda Fitch and Jason Tribble, share and share alike. Should any of the above named individuals predecease Settlers or not survive final distribution of this trust estate, the share which such deceased child would have received had he or she survived shall revert back and become a part of the residue of the trust estate.

When final distribution of all assets has been made by the Trustee, then the Trustee shall be released and this trust shall terminate.

IN WITNESS WHEREOF, the parties have executed this instrument on this 5th day of December, 2005.

Freeman Tribble
Freeman Tribble

Patsy E. Tribble
Patsy E. Tribble

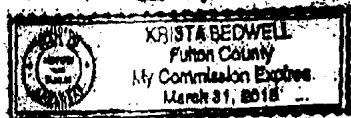
ACKNOWLEDGEMENT

STATE OF ARKANSAS)

COUNTY OF BAXTER)

Personally appeared before me, the undersigned authority, Freeman Tribble and Patsy E. Tribble, who being by me first duly sworn, acknowledged to me that they executed the foregoing instrument freely and voluntarily for the uses and purposes therein expressed; which purposes have, at the time of the execution, been explained to the Grantors and which purposes include the method of distribution of the assets of the will trust at their demise; that they are the individuals described in, and who executed, the said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Mountain Home, Arkansas, this 5 day of December, 2005.



Krista Bedwell
Notary Public

RPD 20

MEMORANDUM OF TRUST AGREEMENT

COPY

WHEREAS, the undersigned executed a certain trust agreement on the ____ day of December, 2005, for the benefit of Freeman Tribble and Patsy F. Tribble, his wife; and,

WHEREAS, this trust agreement shall not be filed of record; and,

WHEREAS, in order to make known the identity of the Trustees and Successor Trustees, the undersigned hereby makes it known that he is the Trustee of The Tribble Family Trust dated the 5th day of December, 2005, and that upon the death of one of them, the survivor shall remain the sole Trustee. Upon the death of the surviving Trustee, the Successor Trustee shall be Jason Tribble. The Successor Trustee shall have full powers with only evidence of Grantor's death being required to fully empower the Successor Trustee. That said trustee is empowered and authorized by said trust agreement to buy, sell, mortgage, lease, transfer, convey or otherwise encumber any real estate owned by the trust at a price upon terms, whether cash or credit, which in the sole discretion of the trustee is deemed adequate.

WITNESS our hands and seals this 5th day of December, 2005.

Freeman Tribble
Freeman Tribble

Patsy F. Tribble
Patsy F. Tribble

STATE OF ARKANSAS)
COUNTY OF BAXTER)

On this day personally appeared before me, Freeman Tribble and Patsy F. Tribble, known to me to be the persons whose name are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

WITNESS my hand and seal this 5th day of December, 2005.

My Commission Expires: 3-31-2015

Krista Bedwell
Notary Public

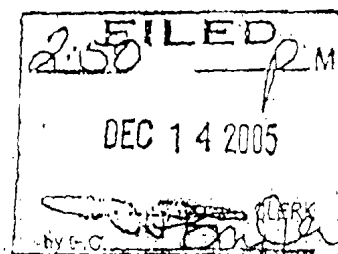
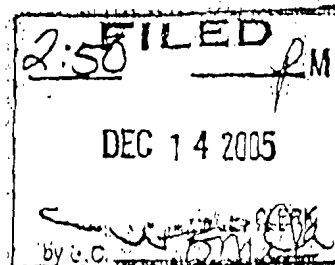


Exhibit
B

EXHIBIT

"B" App 21



**QUITCLAIM DEED
MARRIED PERSON**

KNOW ALL MEN BY THESE PRESENTS:

THAT we, **Freeman Tribble and Patsy Tribble**, his wife, GRANTORS, for and in consideration of the sum of one dollar and other valuable consideration (\$1.00 & OVC), in hand paid by Freeman Tribble and Patsy F. Tribble, Trustees of the Tribble Family Trust UTA dated 12-5-05, with full power to buy, sell, mortgage, lease, transfer, convey and otherwise encumber, GRANTEE(S), the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and quitclaim unto the GRANTEE(S), and unto their heirs and assigns forever, all our right, title, interest and claim in and to the following lands lying in the County of Baxter and State of Arkansas, to-wit:

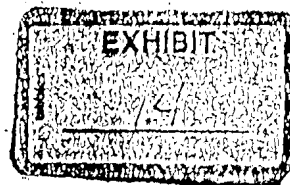
An undivided one-half (1/2) interest in and to the following described real estate:

A part of the NE 1/4 SE 1/4 of Section 23, Township 20 North, Range 12 West, Baxter County, Arkansas, described as follows:

Commencing at the 1/4 corner of Section 23 and 24; thence South 01 deg. 14 min. 24 sec. West for a distance of 503.71 feet to the Southerly right of way of Highway 62; thence along said FWW, South 78 deg. 25 min. 38 sec. West for a distance of 210.00 feet to a #3 road, being the Point of Beginning. Thence South 01 deg. 08 min. 15 sec. West for a distance of 298.15 feet to a #3 road and stone; thence South 88 deg. 12 min. 42 sec. West for a distance of 60.00 feet; thence South 52 deg. 38 min. 52 sec. West for a distance of 40.00 feet; thence North 18 deg. 49 min. 44 sec. West for a distance of 299.84 feet to a #4 road set in the Southerly right of way; thence along a curve to the right having a radius of 723.70 feet and an arc length of 200.00 feet, being subtended by a chord of North 71 deg. 39 min. 08 sec. East for a distance of 199.38 feet to the Point of Beginning.

Together with and subject to covenants, easements and restrictions of record.

To have and to hold the same unto the said GRANTEES, and unto their heirs and assigns forever, with all appurtenances thereunto belonging.



EXHIBIT

"C" App 22

WITNESS my hand and seal on this 13 of December, 2005.

Freeman Tribble
Freeman Tribble

Patsy Tribble
Patsy Tribble

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF BAXTER)

On this day personally appeared, the undersigned, a Notary Public, within and for the County aforesaid, duly commissioned and acting, Freeman Tribble and Patsy Tribble, to me well known as the Grantors, in the foregoing Deed, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public on this 13 of December, 2005.

My Commission Expires: 3-31-15



KRISTA BEDWELL
Pulaski County
My Commission Expires
March 31, 2015

Krista Bedwell
Notary Public

Prepared By:
CARNEY LAW FIRM, P.A.
611 Main Street
Mountain Home, AR 72653

I certify under penalty of false
swearing that at least the correct
amount of documentary stamps
have been placed on this instrument.

NO TRANSFER STAMPS REQUIRED -

Grantee's signature

Grantee's address

16810-2005 A

App 23

**FIRST AMENDMENT
TO THE
TRIBBLE FAMILY TRUST**

KNOW ALL MEN BY THESE PRESENTS;

That I, **Freeman Tribble**, do hereby make, publish and declare this to be a First Amendment to the **TRIBBLE FAMILY TRUST** heretofore made and executed by me on the 5th day of December, 2005.

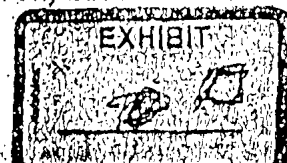
FIRST: I hereby wish to delete in its entirety the existing **ARTICLE IX DISTRIBUTION UPON DEATH OF SETTLORS** of the **TRIBBLE FAMILY TRUST** dated the 5th day of December, 2005, and now hereby revise, amend and substitute said paragraph to read as follows:

Upon the death of **Freeman Tribble**, the Trustee shall pay all the unpaid debts of **Freeman Tribble** and shall pay all their medical, hospital and funeral expenses which are reasonable, ordinary, and necessarily incurred, along with any other expenses or estate or inheritance taxes due any federal or state government necessary in winding up the Settlor's affairs.

The Trustee may make such payments directly or may pay over the amounts thereof to the executor or administrator of the Settlor's estate. Written statements by the executor or administrator of such sums due and payable by the estate shall be sufficient evidence of their amount and propriety for the protection of the Successor Trustee and the Successor Trustee shall be under no duty to see to the application of any such payments.

EXHIBIT

"D" App 24



After such payments, the remaining balance of the Trust estate shall be distributed as follows:

- 1) The Settlor reserves the right to make disposition of tangible personal property by attaching or associating with this Trust, subsequent to its execution, a written and dated statement and list signed by Settlor or in his handwriting designating the devisee of items of tangible property.
- 2) All household goods and furnishings shall be distributed to Jason Tribble.
- 3) The sum of ten thousand dollars (\$10,000.00) shall be distributed to Jason Tribble.
- 4) The Glasstron boat, 85 hp motor and trailer shall be distributed to Jason Tribble.
- 5) The Honda 4-wheeler shall be distributed to Jason Tribble.
- 6) Any vehicle which Settlor owned at the time of death shall be distributed to Jason Tribble.

All the rest, residue, and remainder of the estate shall be distributed to Jason Tribble. Should Jason Tribble predecease Settlor, then that share which he would have received had he survived Settlor shall revert back to and become a part of the estate.

I hereby leave nothing by way of this trust estate to David Tribble, Danny Tribble or Freda Finch.

In no other respect or respects whatsoever is the said original trust in any manner altered or changed except as particularly set forth in this First Amendment and

we do hereby republish and redeclare the said original trust of the 5th day of December, 2005, as the same is altered and changed by the provisions of this First Amendment hereto.

IN WITNESS WHEREOF, the Grantor has executed this instrument on this 14th day of April, 2010.

Freeman Tribble
Freeman Tribble

ACKNOWLEDGEMENT

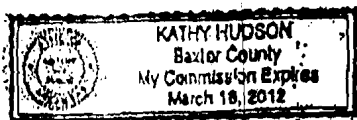
STATE OF ARKANSAS)
COUNTY OF BAXTER)

Personally appeared before me, the undersigned authority, Freeman Tribble, who being by me first duly sworn, acknowledged to me that he executed the foregoing instrument freely and voluntarily for the uses and purposes therein expressed; which purpose have, at the time of the execution, been explained to the Grantor and which purposes include the method of distribution of the assets of the within amendment at their demise; that he is the individual described in, and who executed, the said instrument.

IN WITNESS WHEREOF, we have hereunto set our hands and seals at Mountain Home, Arkansas, this 14th day of April, 2010.

Kathy Hudson
Notary Public

My Commission Expires: 3-18-2012



Carney
93917
181

**QUITCLAIM DEED
MARRIED PERSON**

KNOW ALL MEN BY THESE PRESENTS:

THAT we, Freeman Tribble and Patsy F. Tribble, his wife, GRANTOR, for and in consideration of the sum of one dollar and other valuable consideration (\$1.00 & OVC), in hand paid by Jason D. Tribble and Melissa Tribble, his wife, GRANTEE; the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and quitclaim unto the GRANTEE, and unto their heirs and assigns forever, all our right, title, interest and claim in and to the following lands lying in the County of Baxter and State of Arkansas, to-wit:

Part of the SW 1/4 of the NW 1/4 of Section 24, Township 23 North, Range 12 West, bounded and described as follows: Begin at the NE corner of said forty and run thence South 580 feet to a point of beginning, run thence South 140 feet, thence West to Highway No. 101, thence North with said highway to the SE 1/4 West corner of the Bolton Tract, thence East to the point of beginning.

To have and to hold the same unto the said GRANTEE, and unto their heirs and assigns forever, with all appurtenances thereunto belonging.

WITNESS my hand and seal on this 24th of February, 2000.

Freeman Tribble
Freeman Tribble
Patsy F. Tribble
Patsy F. Tribble

ACKNOWLEDGMENT

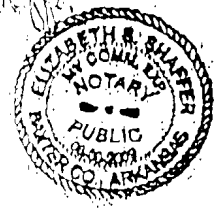
STATE OF ARKANSAS)
COUNTY OF BAXTER)

On this day personally appeared, the undersigned, a Notary Public, within and for the County aforesaid, duly commissioned and acting, Freeman Tribble and Patsy F. Tribble to me well known as the Grantors, in the foregoing Deed, and stated that he had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public on this 24th of February, 2000.

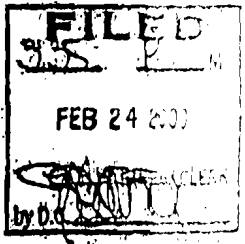
Seal

Elizabeth S. Shaffer
Notary Public



My Commission Expires: _____

PREPARED BY:
CARNEY LAW FIRM, P.A.
411 Main Street
Mountain Home, AR 72653



1708-2000

EXHIBIT

App 27 "F"

TMP/m
August 20, 2002
3-3098

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

That we, Freeman Tribble and Patsy Tribble, his wife, GRANTORS, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other valuable consideration to us in hand paid by Danny Ray Tribble and Sharon Kaye Tribble, his wife, GRANTEES, the receipt of which is hereby acknowledged, do hereby grant, convey, sell and quitclaim unto the said GRANTEES, and unto their heirs and assigns forever, all our right, title, interest and claim in and to the following lands lying in Baxter County, Arkansas, to-wit:

See attached legal description

Subject to all restrictive covenants of record and all easements of record or apparent.

That we, for such consideration, do hereby release and relinquish unto the said GRANTEES all of our respective rights in and to the said lands, including, but not limited to, dower, curtesy and homestead.

To have and to hold the same unto the said GRANTEES and unto their heirs and assigns forever, with all appurtenances thereto belonging.

WITNESS my hand and seals this 23 day of August, 2002.

x Freeman Tribble
Freeman Tribble
x Patsy Tribble
Patsy Tribble

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF Baxter

On this day, personally appeared before me Freeman Tribble and Patsy Tribble, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

Witness my hand and official seal this 22 day of August, 2002.

Daniel L. Tribble
NOTARY PUBLIC

MY COMMISSION EXPIRES:

1-1-2004

Grantor's address:

1853 Maitland Point Rd.
Mountain Home, Ar. 72653

THIS INSTRUMENT PREPARED BY:

Terry M. Poynter
Terry M. Poynter, P.A.
Post Office Box 370
Mountain Home, AR 72654

I certify under penalty of false swearing that the legally correct amount of documentary stamps has been placed on this instrument.

Daniel L. Tribble
Clerk of Grantor's Agent

EXHIBIT
934-2002
EXHIBIT
"F" App 28

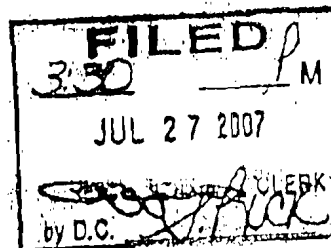
FILED
250
AUG 26 2002
CLERK
by D.C.

Part of the NE 1/4 SE 1/4 Section 23, Township 20 North, Range 12 West, Henderson, Baxter County, Arkansas, as described hereon:

Commencing at the 1/4 corner of Section 23 and 24; thence South 01 degree 14 minutes 24 seconds West for a distance of 503.71 feet to the Southerly right of way of Highway 62; thence along said R/W, South 71 degree 23 minutes 34 seconds West for a distance of 210.00 feet to a #3 rod, being the Point of Beginning; thence South 01 degree 06 minutes 15 seconds West for a distance of 298.15 feet to a #3 rod and stone; thence South 05 degree 12 minutes 42 seconds West for a distance of 60.00 feet; thence South 32 degree 39 minutes 52 seconds West for a distance of 40.00 feet; thence North 18 degree 49 minutes 46 seconds West for a distance of 290.24 feet to a #4 rod set in the Southerly right of way; thence along a curve to the right having a radius of 723.70 feet and an arc length of 200.00 feet, being subtended by a chord of North 71 degree 39 minutes 06 seconds East for a distance of 199.36 feet to the point of beginning.

Q341-2002A

APP 29



WARRANTY DEED

131
#162371
Carney
KNOW ALL MEN BY THESE PRESENTS:

That I, **Freeman Tribble, GRANTOR**, for and in consideration of the sum of one dollar and other valuable consideration (\$1.00 & OVC), in hand paid by, **Jason Dana Tribble** the receipt of which is hereby acknowledged, hereby grants, bargains, sells and conveys unto the said **GRANTEE**, and unto their heirs and assigns forever, the following lands lying in **Baxter County, Arkansas**; to-wit:

That part of the NW 1/4 of the SW 1/4 of Section 24, Township 20 North, Range 12 West, described as follows:

Beginning at a point 482.3 feet East of the NW corner of said forty, run thence South 87 deg. 12 min. East 288.3 feet to the West side of Q10 Highway No. 101, right of way, run thence North 32 deg. 48 min. East along the West line of said highway, 160 feet to a point on the North line of NW 1/4 SW 1/4, run thence West along the North line of said forty, 282 feet to the Point of Beginning.

To have and to hold the same unto the said, **GRANTEE**, and unto their heirs and assigns forever, with all appurtenances thereunto belonging.

And I hereby covenant with said **GRANTEE** that I will forever warrant and defend the title to the said lands against all claims whatsoever.

And I, the **GRANTOR, Freeman Tribble**, for and in consideration of the said sum of money, do hereby release and relinquish unto the said **GRANTEE** all my right of dower, curtesy and homestead in and to the said lands.

WITNESS my hand and seal on this 27th day of July, 2007.

Freeman Tribble
Freeman Tribble

8643-2007
EXHIBIT

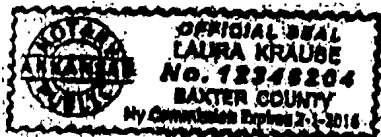
"G" App 30

ACKNOWLEDGMENT

**STATE OF ARKANSAS
COUNTY OF BAXTER**

On this day, personally appeared before me, **Freeman Tribble**, whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and official seal this 27th day of July, 2007.



Laura Krause
Notary Public

My Commission Expires: 7-1-2016

Prepared By:
CARNEY LAW FIRM, P.A.
511 Main Street
Mountain Home, AR 72653

I certify under penalty of false
statement that at least the correct
amount of documentary stamps
have been placed on this instrument.

Grantor's signature

Grantor's address

8843-2007 A

APP 31

3/3

FILED
347 PM

OCT 28 2008

Clerk
by D.C.

This instrument prepared by: Roger Morgan
of Johnson, Sanders & Morgan, Attorneys at Law
P.O. Box 2308, Mountain Home, AR 72654

TRUSTEE'S QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

That Freeman Tribble, Trustee of the Tribble Family Trust UTA dated 12-5-05, with full power to sell, convey, transfer, lease, mortgage or otherwise encumber, GRANTOR, for and in consideration of the sum of TEN DOLLARS and other valuable consideration (\$10.00 OVC) in hand paid by Austin Exteriores, Inc., GRANTEE, the receipt of which is hereby acknowledged, do hereby grant, sell and quitclaim unto said GRANTEE, and unto its successors and assigns forever, the following described lands situated in Baxter County, Arkansas, to-wit:

Part of the NE ¼, SE ¼, Section 23, Township 20 North, Range 12 West, Henderson, Baxter County, Arkansas, as described hereinafter:

Commencing at the ¼ Corner of Sections 23 and 24, thence S. 01 deg. 14' 24" W., a distance of 803.71 feet to the Southerly R/W of Highway 62; thence along said R/W, S. 78 deg. 25' 38" W., a distance of 210.00 feet to a #3 rod; being the Point of Beginning; thence South 01 deg. 08' 15" W., for a distance of 298.15 feet to a #3 rod and stone; thence S. 66 deg. 12' 42" W., for a distance of 60.00 feet; thence S. 52 deg. 39' 52" W., for a distance of 40.00 feet; thence N. 18 deg. 40' 48" W., for a distance of 299.84 feet to a #4 rod set in the Southerly R/W; thence along a curve to the right having a radius of 723.70 feet and an arc length of 200.00 feet, being subtended by a chord of N. 71 deg. 39' 08" E., for a distance of 189.36 feet to the Point of Beginning.

Being shown on a Survey by Stephen A. White, R.P.L.S. #962 filed June 30, 1997 as RS- 234-97.

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps have been placed on this instrument. (If none shown, exempt or no consideration paid.)
Grantor's Agent

NOT REQUIRED
[Signature]

11172-2008

EXHIBIT

App 32 "H"

TO HAVE AND TO HOLD the same unto and unto its GRANTEE, Austin Exteriors, Inc., and unto its successors and assigns forever, with all appurtenances thereto belonging.

WITNESS my hand and seal on this 28th day of October, 2008.

Freeman Tribble (SEAL)
FREEMAN TRIBBLE, Trustee

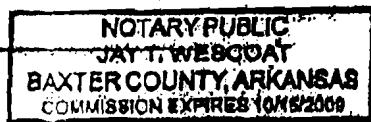
ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF BAXTER) ss.

On this day before the undersigned, a Notary Public within and for the County and State aforesaid, duly commissioned and acting, appeared Freeman Tribble, personally known to me to be the Grantor in the foregoing Deed, and stated that he executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and official seal this 28th day of October, 2008.

My Commission Expires:



[Signature]
Notary Public

GRANTEE'S ADDRESS:

11172-2008A

IN THE CIRCUIT COURT OF BAXTER COUNTY, ARKANSAS
CIVIL DIVISION

FIRST SECURITY BANK

PLAINTIFF

VS.

NO. CV 2010-321-1

JASON TRIBBLE AND
JENNIFER TRIBBLE

DEFENDANTS

DAVID TRIBBLE AND
DANNY TRIBBLE

COUNTER DEFENDANTS

AFFIDAVIT OF MARK CARNEY

STATE OF ARKANSAS
COUNTY OF BAXTER

Before the undersigned duly qualified and sitting in and for the said County and State
appeared satisfactorily proven to be the Affiant herein, who stated the following under oath:

1. My name is Mark Carney and I reside in Mountain Home, Arkansas.
2. I am a licensed attorney and I have been practicing law for the last 26 years.
3. During the course of my practice, I represented Freeman Tribble, a long time client.
4. Freeman Tribble came to my office and requested the preparation of certain trust documents.
5. Freeman Tribble was at all times completely competent and understood all of the documents he signed in my office.
6. I answered any and all questions posed to me by Freeman Tribble.
7. I would not have let Freeman Tribble sign any document he did not fully understand.
8. Freeman Tribble never requested that I place the real property which is the subject of this lawsuit into his trust.
9. In my opinion, Freeman Tribble was acting of his own volition and was not under the undue influence of any third party.
10. I have never acted as an agent for First Security Bank.
11. I have never represented myself to be an agent for First Security Bank.
12. I have never been paid, hired or employed by First Security Bank to act as their agent in any way whatsoever.
13. I have never been authorized by any officer of First Security Bank to act as an agent for First Security Bank.

EXHIBIT

App 34 "I"

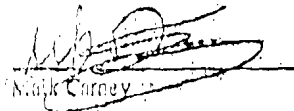
①

560

14. At no time during my representation of Freeman and Patsy Tribble was I acting as an agent for First Security Bank.

I have read the above and foregoing statements and the same are true and correct to the best of my knowledge and belief.

Further the Affiant says he not:

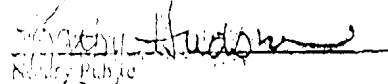

Mark Carney

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF BAXTER

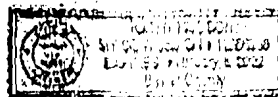
BE IT REMEMBERED, that on this day came before me the undersigned, a Notary Public within and for the county aforesaid, duly commissioned and acting, Mark Carney, to me well known as the person who signed the foregoing instrument and stated that he had executed the same for the purposes and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public on this ____ day of May, 2018.


Notary Public

My Commission Expires:

2-8-2022



IN THE CIRCUIT COURT OF BAXTER COUNTY, ARKANSAS
CIVIL DIVISION

DAVID TRIBBLE and DANNY TRIBBLE

PLAINTIFFS

Vs.

No. 03CV-10-321


JASON TRIBBLE and JENNIFER TRIBBLE

DEFENDANTS

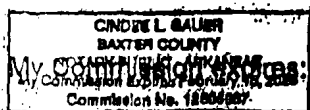
AFFIDAVIT

Comes now affiant, Rebecca Stone, and on her oath states as follows:

1. I am a resident of Mountain Home, Arkansas.
 2. My husband and I were friends with both Freeman Tribble and Patsy Tribble since 1995 until Patsy Tribble's death and remained friends with Freeman Tribble until his death.
 3. Freeman Tribble would visit us when we would camp on the lake.
 4. It was his custom to drive himself to our campsite in his car. He was at all times competent and mentally clear.
 5. I saw him on average of two or three times a week from 1995 until 2009.
 6. During this period of time Freeman Tribble was lucid, mentally sharp and capable. He spoke clearly and appeared competent to me.
- Further the affiant sayeth not.


Rebecca Stone

Subscribed and sworn to before me this 19th day of September, 2018.



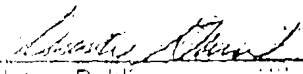

Notary Public

EXHIBIT I
App 36

IN THE CIRCUIT COURT OF BAXTER COUNTY, ARKANSAS
CIVIL DIVISION

FIRST SECURITY BANK

PLAINTIFF

vs.

No. 03CV10-321

JASON TRIBBLE and JENNIFER TRIBBLE

DEFENDANTS

DAVID TRIBBLE and DANNY TRIBBLE

COUNTER-DEFENDANTS

AFFIDAVIT

Comes now, Jennifer Tribble, and on her oath states as follows:

1. I moved in with Jason Tribble in 2004, we were married in July of 2007 and divorced in November 2010. I moved back in January of 2011, we remarried in 2012 and then divorced again in 2015.

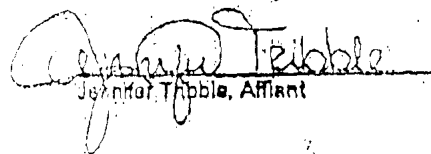
2. I knew Freeman and Poley Tribble since 1994 when they moved to Henderson and saw Freeman Tribble on a daily basis from 2004 until his death in 2010.

3. During these visits he was extremely competent and was not under any undue influence from anyone up and until approximately 2 weeks prior to his death.

4. Freeman was always a very strong-willed, independent thinker. I know he was very competent and acting on his free accord in business dealings on or about July 27, 2007. Any dealings he would have had with my former husband, Jason, and First Security Bank were of his own accord.

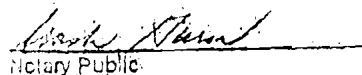
5. The deed from Freeman to Jason was executed freely and voluntarily and my name was never on the deed or any papers of any liens.

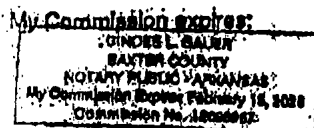
Further affiant sayeth not.


Jennifer Tribble, Affiant

STATE OF ARKANSAS
COUNTY OF BAXTER

Subscribed and sworn to before me this 27th day of October, 2018.


Notary Public



EXHIBIT

APP 37 ② I

③

NOTARY AFFIDAVIT

STATE OF ARKANSAS

COUNTY OF BAXTER

The undersigned, Jay T. Wescoat, states that he was at the time hereinafter mentioned, a duly appointed, qualified, and acting Notary Public at Large for the State of Arkansas, and that on October 28, 2008, he took the acknowledgment of record for Instrument No. 11172-2008 in the Recorder's Office of Baxter County, Arkansas.

NOW THEREFORE, in order to correct a cloud on the title of Austin Exteriors, Inc. The said property being that which Freeman Tribble and his wife Patsy had previously deeded off their 1/2 interest in 2002, then erroneously conveyed to their trust in December of 2005. Freeman Tribble did willfully sign a Trustees' Quitclaim Deed, as Trustee of the Tribble Family Trust to Austin Exteriors, Inc., correcting said cloud in title for no remuneration.

WHEREAS, to the best of my knowledge, Freeman Tribble who signed the above described instrument was of sound mind and faculties and knew the purpose as to why he was signing a Trustee's Quit Deed conveying property to Austin Exteriors, Inc.

WITNESS my hand and seal this 16th day of October, 2018.

Jay T. Wescoat
JAY T. WESCOAT

Subscribed and sworn before me this 16th day of October, 2018.

Mary A. Lochner
Notary Public



EXHIBIT

APP 38

IN THE CIRCUIT COURT OF BAXTER COUNTY, ARKANSAS
CIVIL DIVISION

FIRST SECURITY BANK

PLAINTIFF

VS.

NO. CV 2010-321-1

JASON TRIBBLE AND
JENNIFER TRIBBLE

DEFENDANTS

DAVID TRIBBLE AND
DANNY TRIBBLE

COUNTER DEFENDANTS


AFFIDAVIT OF KATHY PARKER

STATE OF ARKANSAS
COUNTY OF BAXTER

Before the undersigned duly qualified and acting in and for the said County and State
appeared satisfactorily proven to be the Affiant herein, who stated the following under oath:

1. My name is Kathy Parker and I reside in Mountain Home, Arkansas.
 2. I am a loan officer with First Security Bank in Mountain Home, Arkansas. I have been employed with the bank for 42 years.
 3. I assisted Freeman Tribble with his bank loans and other dealings with First Security Bank.
 4. Freeman Tribble appeared competent and rational each time I dealt with him.
 5. I never saw Freeman Tribble appear heavily medicated, or to be under the influence of any third person.
 6. Freeman Tribble was never confused, distracted or puzzled by any of his dealings with First Security Bank.
 7. I never observed Freeman Tribble to be under the influence of any person, undue or otherwise. He was at all times his own man acting with clear faculties.
- I have read the above and foregoing statements and the same are true and correct to the best of my knowledge and belief.

Further the Affiant sayeth not.


Kathy Parker

EXHIBIT

APP 39 "I"

5

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF BAXTER

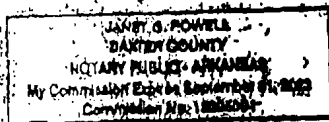
BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public within and for the county aforesaid, duly commissioned and acting, Kathy Parker, to me well known as the person who signed the foregoing instrument and stated that she had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public on this 24th day of May, 2018.

Jane L. Powell
Notary Public

My Commission Expires:

9/1/2023



IN THE CIRCUIT COURT OF BAXTER COUNTY, ARKANSAS
CIVIL DIVISION

DAVID TRIBBLE AND
DANNY TRIBBLE

PLAINTIFFS

VS.

NO. 03CV-10-321

JASON TRIBBLE AND
JENNIFER TRIBBLE

DEFENDANTS

FIRST SECURITY BANK

DEFENDANT

NOTICE OF APPEAL

Notice is hereby given that David Tribble and Danny Tribble, Plaintiffs, appeal from the Order Denying Plaintiff's Motion for Summary Judgment and Order Granting Defendant's Motion for Summary Judgment, filed May 20, 2019.

Notice is also given of Plaintiffs' appeal of all prior orders of this Court granting summary judgment of Defendant, First Security Bank, and denying Plaintiffs' Motion for Summary Judgment against First Security Bank.

Appellants have made arrangements with the Baxter County Circuit Clerk for preparing the record.

Respectfully submitted,

LARRY J. STEELE PLC

By: Larry J. Steele
LARRY J. STEELE (78146)
225 West Elm Street
P.O. Box 561
Walnut Ridge, AR 72476-0561
(870) 886-5840
(870) 886-5873 fax
email: steelelaw7622@sbcglobal.net
*Attorney for Plaintiffs/Appellants,
David Tribble and Danny Tribble*

CERTIFICATE OF SERVICE

I hereby certify that on May 29, 2019, I electronically filed the foregoing with the Clerk of the Court using the Arkansas Judiciary Electronic Filing System, which shall send notification of such filing to the following:

Ronald P. Kincade
KINCADE LAW OFFICE
701 S. Church Street
Mountain Home, AR 72653

Mark F. Cooper
COOPER & BAYLESS, P.A.
222 West 6th Street
Mountain Home, AR 72653

Larry J. Steele
LARRY J. STEELE

Re: Tribble, et al. v. Tribble, et al.

From: LARRY STEELE (steelelaw7622@sbcglobal.net)

To: kyle.burton@arcourts.gov

Date: Wednesday, August 28, 2019, 3:38 PM CDT

Thanks Kyle.

Larry J. Steele

LARRY J. STEELE PLC

P.O. Box 561

225 West Elm Street

Walnut Ridge, AR 72476

(870) 886-5840

(870) 886-5873 fax

steelelaw7622@sbcglobal.net

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On Wednesday, August 28, 2019, 3:21:43 PM CDT Kyle E. Burton <Kyle.Burton@arcourts.gov> wrote:

Larry,

You will likely need to use both appeal records to prepare your abstract, brief, and addendum so that it includes all necessary and relevant info and documents. When you cite to records, you will need some way to distinguish between the prior appeal record and the current appeal record. A lot of attorneys will use the abbreviations "1R" and "2R" to distinguish citations to the two different records. For example, if you intend to cite page 50 of the prior appeal record, you could use "1R 50" to refer to that page. If you are citing to page 50 of the current appeal record, you could cite it as "2R 50." You

App 73

would probably also need to include some explanation in the table of contents telling the court that references to "1R" are references to the prior appeal record case no. CV-17-376 and that those to "2R" are references to the current record in case no. CV-19-603.

I hope this makes sense. Let me know if you have questions.

Kyle E. Burton

Appellate Review Attorney

Office of the Clerk of the Arkansas Supreme Court

and Court of Appeals

625 Marshall Street

Little Rock, AR 72201

(501) 682-4405

From: LARRY STEELE <steelelaw7622@sbcglobal.net>

Sent: Wednesday, August 28, 2019 2:44 PM

To: Kyle E. Burton <Kyle.Burton@arcourts.gov>

Subject: Tribble, et al. v. Tribble, et al.

Kyle,

The matter of *Tribble, et al. v. Tribble, et al.*, No. CV-19-003, was previously appealed but returned to Baxter County for a new judge to rule on remaining issues. I am asking for suggestions on how to prepare Appellants' Abstract and Brief considering the two records, the previous record lodged with the court and the new record.

Larry J. Steele

LARRY J. STEELE PLC

P.O. Box 561

225 West Elm Street

Walnut Ridge, AR 72476

(870) 886-5840

(870) 886-5873 fax

steelelaw7622@sbcglobal.net

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Kyle E. Burton
Appellate Review Attorney
Office of the Clerk of the Arkansas Supreme Court
and Court of Appeals
625 Marshall Street
Little Rock, AR 72201
(501) 682-4405

From: Terry Jones <tgjones_atty@yahoo.com>
Sent: Friday, January 17, 2020 8:21 AM
To: Kyle E. Burton <Kyle.Burton@arcourts.gov>; LARRY STEELE
<steelelaw7622@sbcglobal.net>
Cc: Bobby R. Jackson <Bobby.Jackson@arcourts.gov>
Subject: Re: CV-19-603, Tribble

Thank you for all your help Kyle. I will get that efiled today.

Sent from Yahoo Mail on Android

On Thu, Jan 16, 2020 at 4:12 PM, Kyle E. Burton
<Kyle.Burton@arcourts.gov> wrote:

Larry,

Today, two briefs were submitted to eFlex in the Tribble case. The first one was the brief for the most recent appeal, CV-19-603. The second brief submitted was a copy of the brief submitted in the prior appeal of this matter, CV-17-376. Generally, parties are not permitted to refile the briefs from a prior appeal in the subsequent appeal case. Therefore, Bobby and I reached out to Terry because we knew she was helping you put together the brief.

While parties are generally not permitted to refile briefs from old appeals, it sometimes it is necessary to include in the latter appeal's abstract and addendum information from the prior appeal record. I believe that this may be the source of confusion that led to the attempt to file the brief from the prior appeal.

In any event, in discussing the matter with Terry, the idea was floated of taking the addendum from the prior appeal and tacking it on to the end of the brief in the current appeal. Because Terry may have had some technical difficulties in doing that, we offered to add the old addendum to the end of the new appeal brief. See attached. If you would like to tender the brief in that form, please efile it via eFlex.

I note that this may not have resolved all of the issues with the brief, such as the fact that the pagination of the addendum starts at page one, and then starts over again at page one approximately 500 pages later. There may be other issues with it as well, but we think it is probably close enough that the clerk's office could approve it for filing if the court grants the pending motions for an extension of time. Of course, however, it is possible that the court could order rebriefing at a later time.

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I hope this if helpful.

Best regards,
Kyle

Kyle E. Burton
Appellate Review Attorney
Office of the Clerk of the Arkansas Supreme Court
and Court of Appeals
625 Marshall Street
Little Rock, AR 72201
(501) 682-4405

RE: CV-19-603, Tribble

From: steelelaw7622 (steelelaw7622@sbcglobal.net)

To: tgjones_atty@yahoo.com

Date: Friday, January 17, 2020, 2:00 PM CST

Thanks

Sent via the Samsung Galaxy S8 Active, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Terry Jones <tgjones_atty@yahoo.com>

Date: 1/17/20 1:14 PM (GMT-06:00)

To: Kyle.Burton@arcourts.gov, LARRY STEELE <steelelaw7622@sbcglobal.net>

Cc: "Bobby R. Jackson" <Bobby.Jackson@arcourts.gov>

Subject: RE: CV-19-603, Tribble

Haha! If there's a mistake to be made, i can make it. Got caught up in court. Will resubmit within 10 min

Sent from Yahoo Mail on Android

On Fri, Jan 17, 2020 at 9:38 AM, Kyle E. Burton
<Kyle.Burton@arcourts.gov> wrote:

Terry,

We had to reject it because it was filed in the old 2017 case. It should be filed in CV-19-603.

Kyle E. Burton
Appellate Review Attorney
Office of the Clerk of the Arkansas Supreme Court
and Court of Appeals
625 Marshall Street
Little Rock, AR 72201
(501) 682-4405

From: Kyle E. Burton

Sent: Friday, January 17, 2020 8:22 AM

To: tgjones_atty <tgjones_atty@yahoo.com>; LARRY STEELE
<steelelaw7622@sbcglobal.net>

Cc: Bobby R. Jackson <bobby.jackson@arcourts.gov>

Subject: RE: CV-19-603, Tribble

You are welcome. Will be on the lookout for it.

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CV-19-603 Tribble v. First Security Bank - Petition for Review

From: Linda A. Ryerson (linda.ryerson@arcourts.gov)

To: steelelaw7622@sbcglobal.net

Date: Friday, February 21, 2020, 9:34 AM CST

Good morning Mr. Steele,

Yesterday, you submitted a petition for review for filing in CV-19-603, David Tribble and Danny Tribble v. First Security Bank. I am unable to accept the petition for review for filing as our Rules do not allow for a petition for review off a decision on a motion, other than a disposition from the Court of Appeals. You may file a motion for rule on clerk or some other type of motion requesting permission to file the petition for review with the Supreme Court. Should the Supreme Court grant that motion, then I would be able to file the petition for review and submit it to the Supreme Court. I am rejecting the electronic submission of the petition for review in the electronic filing system this morning.

I did leave a message about this matter with your office yesterday afternoon. You do not need to return my call unless you have any questions regarding this. If you do have questions, please feel free to contact me directly at my information below.

Thank you,

Linda Ryerson

Arkansas Supreme Court

Chief Deputy Clerk

625 Marshall St.

Little Rock, AR 72201

Phone: 501-682-6848

Fax: 501-683-4013

Linda.Ryerson@arcourts.gov

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OFFICE OF THE CLERK
ARKANSAS COURT OF APPEALS
625 MARSHALL STREET
LITTLE ROCK, AR 72201

JANUARY 21, 2020

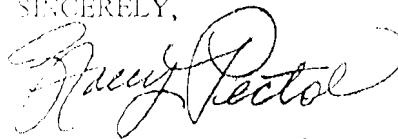
RE: COURT OF APPEALS CASE NO. CV-19-005
DAVID TRIBBLE AND DANNY TRIBBLE V. FIRST SECURITY BANK, JASON
TRIBBLE, AND JENNIFER TRIBBLE

THE ARKANSAS COURT OF APPEALS ISSUED THE FOLLOWING ORDER TODAY IN
THE ABOVE STYLED CASE:

"APPELLANTS' MOTION FOR MORE TIME TO CORRECT ABSTRACT AND BRIEF IS
DENIED. GLADWIN AND SWITZER, JJ., NOT PARTICIPATING."

"APPELLANTS' AMENDED MOTION FOR MORE TIME TO CORRECT ABSTRACT AND
BRIEF IS DENIED. GLADWIN AND SWITZER, JJ. NOT PARTICIPATING."

SINCERELY,

A handwritten signature in cursive script, appearing to read "Stacey Pectol".

STACEY PECTOL, CLERK

CC: LARRY J. STEELE
MARK COOPER
RONALD P. KINCADE

OFFICE OF THE CLERK
ARKANSAS COURT OF APPEALS
625 MARSHALL STREET
LITTLE ROCK, AR 72201

FEBRUARY 12, 2020

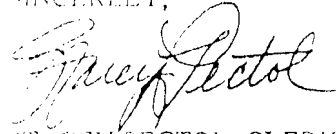
RE: COURT OF APPEALS CASE NO. CV-19-003
DAVID TRIBBLE AND DANNY TRIBBLE V. FIRST SECURITY BANK, JASON
TRIBBLE, AND JENNIFER TRIBBLE

THE ARKANSAS COURT OF APPEALS ISSUED THE FOLLOWING ORDER TODAY IN
THE ABOVE STYLED CASE:

"APPELLANTS' MOTION FOR ORDER GRANTING LEAVE TO FILE BELATED
APPELLANTS' BRIEF IS MOOT. GLADWIN AND SWITZER, JJ., NOT PARTICIPATING."

"APPELLANTS' SUPPLEMENT TO MOTION FOR ORDER GRANTING LEAVE TO FILE
BELATED APPELLANTS' BRIEF IS DENIED. GLADWIN AND SWITZER, JJ., NOT
PARTICIPATING."

SINCERELY,



STACEY PECTOL, CLERK

CC: LARRY J. STEELE
MARK COOPER
RONALD P. KINCADE

OFFICE OF THE CLERK
ARKANSAS SUPREME COURT
625 MARSHALL STREET
LITTLE ROCK, AR 72201

MARCH 19, 2020

RE: COURT OF APPEALS CASE NO. CV-19-003
DAVID TRIBBLE AND DANNY TRIBBLE V FIRST SECURITY BANK, JASON
TRIBBLE, AND JENNIFER TRIBBLE

THE ARKANSAS SUPREME COURT ISSUED THE FOLLOWING ORDER TODAY IN THE
ABOVE STYLED CASE:

"APPELLANT'S MOTION FOR RULE ON CLERK IS DENIED. WOMACK, J., NOT
PARTICIPATING."

SINCERELY,



STACEY PECTOL, CLERK

CC: LARRY J. STEELE
MARK COOPER
RONALD P. KINCADE