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**IN THE ARKANSAS COURT OF APPEALS
DIVISION I
No. CV-22-435**

**RURAL REVIVAL LIVING
TRUST; AND LAURA LYNN
HAMMETT**

APPELLANTS

v.

**MICHEAL PIETRCZAK
APPELLEE**

PETITION FOR REHEARING

**Appeal from the Searcy
County Circuit Court
[NO. 65CV-21-20]**

**HON. SUSAN WEAVER
JUDGE**

1. Appellant Laura Lynn Hammett petitions the Court of Appeals for rehearing under Ark. R. Sup. Ct. & Ct. App. 2-3. “Hammett” is used for consistency with a related petition for writ of certiorari filed with the U.S. Supreme Court (*Hammett v. Portfolio Recovery Associates, LLC*, filed Oct. 7, 2024)

2. The Court of Appeals incorrectly dismissed for lack of jurisdiction, citing the non-finality of the April 7, 2022 order and ruling that no exceptions under Ark. R. App. Pro. – Civ. 2(a) applied. It declined to address the merits of the legal issues in the appellant’s unopposed brief. (Opinion at 2)

SPECIFIC GROUNDS FOR REVIEW

3. Inconsistency between cases: The Court of Appeals violated Hammett's due process rights under *U.S. Const. amend. XIV* by failing to exercise jurisdiction when it could have. The Court failed to address orders requiring *de novo* review, including the dismissal of one common defense defendant without dismissing the defaulting defendant, which should have ended the case.

4. Intra-case inconsistency: The appellate court failed to recognize that the circuit court issued orders against Hammett after her dismissal, which was clearly beyond its jurisdiction. This oversight not only conflicts with rulings from other courts but also with the court's own orders. The appellate court treated its obligation to review jurisdictional issues at the circuit court level differently than its obligation to review jurisdictional issues at the appellate level.

5. Matters of substantial public interest: The opinion would return jurisdiction to a judge with a strong appearance of bias against Hammett. This is an issue of public concern. Judge Weaver has a pattern of depriving pro se litigants of property and other rights without due process, undermining trust in the judiciary.

6. The Court's reliance on inaccurate, non-verbatim transcripts is of substantial public interest, also, as it erodes trust in the integrity of the court's proceedings.

7. Conflict with Precedent: The decision conflicts with *Keith v. Barrow-Hicks*, 275 Ark. 28, 626 S.W.2d 951 (1982), warranting review to ensure consistency in Arkansas case law.

8. The court failed to apply the Common-Defense Doctrine, issuing improper orders against a dismissed defendant, conflicting with *Sutter v. Payne*, 337 Ark. 330, 989 S.W.2d 887 (1999).

9. Hammett has been deprived of her property rights for two years. On June 10, 2022, the Lick Fork property title was transferred from the Appellee, who admitted in writing to committing fraud on the court (RP942-945, RP1082 at ¶ 6). That same day, the title transferred to an irrevocable trust and then to a third party. Even if Hammett prevails, recovering her property will be a daunting challenge.

BRIEF MEMORANDUM OF AUTHORITIES

10. *Constitution of the United States of America Amendment XIV Section 1*, inter alia: “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.” To deny review on the merits of orders issued by a judge with an appearance of bias denies these important rights. Delaying review for over two years undermines the integrity of the judicial system.

11. *United Nations Universal Declaration of Human Rights Article Two* states: “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, **property**, birth or **other status**.” (Bold added for emphasis) These proceedings are marred by clear bias against the self-represented litigant, reflecting broader concerns of fairness and equity. Quite pointedly, after costs and contingency fees, Plaintiff is likely left with the \$75,000 Hammett offered to pay him before William Z. White got involved. The only ones to profit were officers of the court. If there is any justice, Pietrczak will get to keep none of that \$75,000, and Mr. White will be sanctioned.

12. *Keith* grants the Court of Appeals discretion to expedite the appellate process in cases like this, “out of fairness”.

13. Arkansas Rule of Appellate Procedure – Civ. 2(a)(2) and (6) (2002) make interlocutory appeal mandatory when an order “discontinues the action”, such as the order of April 14, 2022, and when an “injunction is granted, continued, modified...”, as in the April 7, 2022 order.

14. On March 17, 2022, the court granted an oral injunction barring Hammett from using the Lick Fork property or retrieving her personal belongings. (RT113-115) Hammett was not allowed to defend her rights. (RT086:15-090:7) Although

she was dismissed with prejudice on March 28, 2022, the order was silent on the injunction. (RP1010-1011) On April 7, 2022, the court continued the injunction. (RP1074 at ¶¶ 3-5) Hammett brought this to the court's attention. (RP1104 at ¶ 52)

15. Under Ark. R. Civ. P. 52, the injunction should have been discontinued by the March 28, 2022 dismissal order. The rule requires fault determinations only if a settlement is entered or a party gives notice of nonparty fault. Hammett has neither settled nor given notice of fault, and the defending party (the trust) presented no defense. The court, therefore, cannot attribute fault to Hammett, who was dismissed with prejudice. Hammett preserved this argument at the circuit court. (RT1081 - Hammett's Motion to Set Aside Order and Judgment pursuant to Ark. R. Civ. P. 60(a), April 11, 2022)

16. Further, under Ark. R. Civ. P. 41, a voluntary dismissal operates as an adjudication on the merits if the plaintiff has previously dismissed an action on the same claim unless all parties agree otherwise by written stipulation. (RP1083)

17. The court's findings against Hammett were made without jurisdiction and contradict the lawful dismissal order entered on March 28, 2022, and amended on April 4, 2022. Despite Hammett's dismissal, the circuit court continued to issue orders against her, which the appellate court failed to address. This inconsistency

further highlights the appellate court's failure to uniformly apply its obligation to review jurisdictional issues at both the circuit and appellate levels.

18. On April 13, 2022, plaintiff argued that Hammett's opportunity to recover her property rights should end due to her voluntary dismissal. (RP1107-1108)

19. On April 14, 2022, the court issued a one-directive order stating, 'Any and all other motions filed herein, shall be denied.' (RP1110). This order effectively ended the proceedings and was issued immediately after the April 13, 2022 motion, without allowing Hammett an opportunity to oppose.

20. The April 14, 2022 order created ambiguity in the finality of the April 7, 2022 order. It blocked relief under Ark. R. Civ. P. 60, denied a motion to stay the writ of possession and transfer of title, and predetermined that any anticipated motion allowed by the April 7 order 'shall be denied.' However, it could not modify the April 7 order without prior notice to all parties. (Ark. R. Civ. P. 60(a))

21. The April 7, 2022 order included a writ of possession, which was not designated "temporary," required no bond, and involved no hearing. Executing the judge's directive constituted finality, despite this court's claim of no execution (Opinion at 3). (RP1076)

22. In *Keith*, the appellate court reached the merits despite the final order anticipating further accounting, finding the chancellor had abused discretion in

retaining jurisdiction. Here, Judge Weaver had no discretion. Under the Common-Defense Doctrine, dismissal of an appearing co-defendant should have ended the case, benefiting the defaulting defendant. (*Sutter*) (Appellant's Brief at 39)

23. The court created confusion over whether the orders from April 7, 2022, April 14, 2022, or both were final appealable orders. This deflected from the court's refusal to dismiss the defaulting party under the Common Defense Doctrine. The case should have been closed on March 28, 2022. (RP1010,1011)

24. A dismissal "with prejudice" is conclusive of the parties' rights, as if the case had been fully adjudicated adverse to the plaintiff. *Orr v. Hudson*, 2010 Ark. 484, 374 S.W.3d 686 (2010). (RP1084)

25. *Ark. State Highway Comm. v. Kesner*, 388 S.W.2d 905, 912 (Ark. 1965), cited in *Keith*, is distinguishable. In *Kesner*, the parties had "no right to delay completion of the trial" to appeal liability before damages were fully determined. Here, the appeal was not filed to delay proceedings, nor did it delay the damages determination. The court's actions rendered further proceedings futile.

26. *Keith* restates the harmless error doctrine, ensuring appeals are decided on merits rather than technicalities. In this case, procedural rules were misapplied, failing to ensure the "speedy administration of justice".

27. Beyond the appearance of bias discussed in Hammett's brief, the confusion caused by the court's orders reasonably suggests that Judge Weaver was advocating for the represented party over the pro se litigant. Had Hammett not filed a NOA, this court might have easily claimed that the April 14, 2022 order finalized the April 7, 2022 order. Pietrczak's silence, in retrospect, suggests he was certain jurisdiction would be questioned and contributed to the two-year delay.

28. Even Rural Revival Living Trust's attorney was misled by the same procedural trap, underscoring the deceptive nature of the court's actions. (RP1122)

29. A serious due process violation also occurred through collusion between the judge and court reporter to falsify transcripts. Hammett never "agreed" that her contract with Pietrczak was illegal or "void ab initio." She stated the contract was voidable and favored Pietrczak, and agreed to void it for that reason. Pietrczak's entry into the contract demonstrates his fraud on the court by falsely claiming Hammett agreed to give him 100% of the Lick Fork property.

30. The proceedings would have ended had the court and court reporter not colluded to falsify the August 4, 2021 hearing transcript. In reality, the judge correctly stated that a motion for extension of time to serve the summons on the trust had to be made in writing, with an opportunity for Hammett to respond. The extension was granted above Hammett's objections. (RP359-365,383-386)

31. For transparency due, this court must reverse the orders denying Hammett access to the audio record for playback in open court. Hammett's allegations of bias and wrongdoing warrant publicity of the recordings. *Ark. R. App. Pro. 6(e)*

32. As stated in *Craig v. State*, 64 Ark. App. 281 (1998), 983 S.W.2d 440: "To suggest that the trial judge, in carrying out this court's directive to 'settle the record,' should be permitted to do so in the privacy of his office without notice to or the presence of others interested in the matter is foreign to any notion of due process, especially where the dispute over the content of the record relates to what the judge himself said or did not say."

Wherefore, Appellant respectfully asks this Court to rehear the case and reach the merits, ultimately granting relief consistent with that requested in the appeal. In addition, reinstate the contract between Hammett and Pietrczak and ensure it is properly filed by the county recorder; Permit Appellant to file a *lis pendens* on the Lick Fork property until all related proceedings are complete and award compensation for the loss of use; Refer the matter to the appropriate prosecuting attorney for fraud on the court; Grant any additional relief this Court deems just.

Respectfully submitted,



Laura Lynn Hammett

Certificate of Merit

I, Laura Lynn Hammett, in pro se, certify that to the best of my knowledge, information, and belief formed after reasonable inquiry, this document is well grounded in fact, warranted by existing law or a good faith argument for its extension, modification, or reversal, not filed for the purpose of delay or any improper purpose, and complies with Rule of Civil Procedure 5(c)(2) regarding redaction of confidential information.



Date: October 20, 2024

Laura Lynn Hammett

Certificate of Service

I, Laura Lynn Hammett, certify that on this 21st day of October, 2024, I placed in the mail certified return receipt requested, adult signature required restricted to the addressee with postage fully prepaid, the foregoing Petition for Rehearing, brief, and statement of merit and a second copy by USPS with return receipt, addressed to counsel of record at the address supplied by the Clerk of the Court:

William Z. White, 706 W. Quitman Street, Heber Springs, AR 72543



Laura Lynn Hammett

16 Gold Lake Club Road

Conway, Arkansas 72032

(760) 966-6000

Bohemian_books@yahoo.com

Appellant, pro se