

2026 WL 1216594

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Missouri Court of Appeals, Eastern District.

Jill VAN DEEL, Appellant,
v.
A-PLUS CONTRACTING, LLC,
and
Byron Cornell Jeffries, Respondents.

ED114002

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Filed: May 5, 2026

Editor's Note: This decision contains discussion of citation references that are incorrect or do not actually exist. These invalid citations appeared in the original court opinion and have been preserved as written since they are part of the official record. Any links to these invalid citations have been removed.

Appeal from the Circuit Court of St. Charles County The Honorable W. Christopher McDonough, Judge

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Rebeca Navarro-McKelvey, Presiding Judge

Introduction

*1 Jill Van Deel (Appellant) appeals from the circuit court's grant of summary judgment in favor of A-Plus Contracting, LLC (A-Plus) and Byron Jeffries (Jeffries) (collectively Respondents). Appellant sued Respondents for negligence

alleging that they caused her injury when she rode her motorcycle through an oil spill coming from Respondents' leaking dump truck. On appeal, Appellant asserts two points: (1) that the circuit court erred by granting Respondents' summary judgment motion "based on the sudden emergency doctrine," wherein genuine issues of material fact exist, and (2) the circuit court erred by denying her leave to amend and file a third-amended petition. Because Appellant fails to recite the facts as required by Rule 84.04(c)¹ and Rule 74.04(c) (2008) we cannot engage in fair and meaningful review; thus, we dismiss Point One. Additionally, Appellant's Point Two fails to substantially comply with Rule 84.04(d) or (e), preserving nothing for appellate review and requires dismissal. We dismiss Point Two.

Factual and Procedural Background

In March 2019, Jeffries, an employee of A-Plus, drove a company-owned Sterling dump truck hauling rock to a job site in Earth City, Missouri. Although A-Plus owned the truck, A-Plus did not perform its own maintenance on the vehicle, and instead sent it to AA Roadrunner, an automotive repair company in St. Louis, Missouri, for all maintenance and repairs. While driving north on Missouri Highway 94, the truck suddenly shut off without warning. Jeffries coasted the vehicle onto the shoulder of the exit ramp to Missouri Highway 370, exited, put warning triangles behind the truck, and called for assistance. Despite the truck showing no signs of mechanical issues or oil leakage prior to shutting down, Jeffries then observed an oil spot on the road. While a highway patrol trooper was cleaning up the oil spill, Appellant drove over the spill and crashed.

In October 2019, Appellant filed suit against Respondents, and subsequently filed a First Amended Petition in January 2020 and a Second Amended Petition in April 2024. In her Second Amended Petition, Appellant alleged that Respondents were negligent by allowing oil to spill on to the roadway; failing to keep a proper lookout; failing to stop, swerve, slacken, or sound a warning; and driving at an excessive speed.

In May 2025, Respondents filed their Joint Motion for Summary Judgment and Statement of Uncontroverted Material Facts (Defendants' SUMF). In June 2025, Appellant timely filed a response opposing the motion, including a response to Defendants' SUMF. In her response, Appellant cited the original paragraph numbers, but did not set forth

any of the statements of fact established in Defendants' SUMF. Instead, Appellant either admitted the allegation or stated "Plaintiff does not have sufficient information to admit or deny the allegations contained in paragraph [] of Defendants' Uncontroverted Material Facts in Support of their Joint Motion for Summary Judgment and therefore denies." Appellant did not reference any discovery, exhibit, or affidavit to support her denials.

*2 In July 2025, the circuit court heard arguments on the summary judgment motion and took the motion under submission. After the hearing, while the motion was pending, Appellant filed a "Sur-Reply to Defendants' Motion for Summary Judgment or, in the Alternative, Motion to Amend Petition." The Sur-Reply sought leave to file a third amended petition, but no such petition was attached to the Sur Reply or to the record on appeal. On August 29, 2025, the circuit court issued its judgment granting summary judgment in favor of Respondents. The circuit court found that Appellant's Response to Respondents' Statement of Uncontroverted Material Facts did not comply with Rule 74.04(c)(2) and that all facts were therefore admitted. Under the summary judgment record, the circuit court found no facts showing that Respondents breached any duty owed to Appellant, and found they were entitled to judgment in their favor as a matter of law. This appeal follows.

Fundamentals of Appellate Review

This Court reviews a circuit court's grant of summary judgment *de novo*. *Martin Leigh, PC, v. Williamson*, 699 S.W.3d 538, 541 (Mo. App. S.D. 2024) (citing *Green v. Fotoohigham*, 606 S.W.3d 113, 115 (Mo. banc 2020)). Facts come into a summary judgment record only via the Rule 74.04(c) numbered-paragraphs and response framework, and we review a grant of summary judgment based on that record alone, with affidavits, exhibits, and discovery playing a supporting role, only as cited to support numbered paragraphs and responses. *See Green*, 606 S.W.3d at 116–17 (internal quotation omitted). "Summary judgment is only proper if the moving party establishes that there is no genuine issue as to the material facts and that the movant is entitled to judgment as a matter of law." *Z.S. by & through P.S. v. Rockwood Sch. Dist.*, 674 S.W.3d 818, 820 (Mo. App. E.D. 2023) (internal quotation omitted). While our review of a grant of summary judgment is *de novo*, that standard of review does not grant Appellant permission to craft arguments free from the constraints of Rule 74.04. *Great Southern Bank v.*

Blue Chalk Constr., LLC, 497 S.W.3d 825, 836 (Mo. App. S.D. 2016).

Compliance with Rule 84.04 is mandatory. *Murphree v. Lakeshore Ests., LLC*, 636 S.W.3d 622, 623–24 (Mo. App. E.D. 2021) (internal citation omitted). The purpose of "Rule 84.04 is [] to give notice to the other party of the precise matters at issue and to ensure that appellate courts do not become advocates for the appellant by speculating facts and arguments that have not been made." *Murphy v. Steiner*, 658 S.W.3d 588, 591 (Mo. App. W.D. 2022) (internal citation omitted).

Analysis

We dismiss Point One because Appellant's Brief fails to recite the facts as required by Rule 74.04(c) and Rule 84.04(c)

"[O]ur *de novo* decision on appeal must be in accordance with all the requirements of Rule 74.04 and, therefore, must be made in the very same manner the [circuit] court [] [] applied that rule in the first instance." *Blue Chalk*, 497 S.W.3d at 836 (emphasis omitted). A non-movant's "response shall set forth each statement of fact in its original paragraph number and immediately thereunder admit or deny each of movant's factual statements." Rule 74.04(c)(2). Here, Appellant failed to do as required. Furthermore, "the response shall support each denial with specific references to the discovery, exhibits or affidavits that demonstrate specific facts showing that there is a genuine issue for trial." Appellant denied several allegations, but provided no supporting references. Failure to do so, "renders the truth of the fact admitted." *Montgomery v. Coreslab Structures (Missouri), Inc.*, 697 S.W.3d 766, 772 (Mo. App. W.D. 2024); Rule 74.04(c)(2).

Moreover, Compliance with Rule 84.04 is mandatory. *Murphree*, 636 S.W.3d at 623. Rule 84.04(c) requires a concise statement of the facts relevant to the questions presented for determination and that such statements have specific page references to the relevant portion of the record on appeal. A brief appealing the grant of summary judgment "should [] set forth the material facts established by Rule 74.04(c)(1) and (2) together with the pages in the legal file where such facts were established." *Wichita Falls Prod. Credit Ass'n v. Dismang*, 78 S.W.3d 812, 815 (Mo. App. S.D. 2002) (internal quotation omitted). The facts relevant to appealing a grant of summary judgment are those in the movant's statement of uncontroverted material facts and in the

non-movant's properly pleaded responses thereto. *J.D. by and through Storment v. Sanders*, 688 S.W.3d 828, 833 (Mo. App. S.D. 2024) (internal quotation omitted). From this record alone, we determine whether the established uncontroverted facts entitle a movant to judgment as a matter of law. *Green*, 606 S.W.3d at 117–18 (internal quotation omitted).

*3 Here, Appellant's brief fails to set out the uncontroverted material facts that Respondents' established in their Statement of Uncontroverted Material Facts, which were deemed admitted because Appellant's responses did not comply with Rule 74.04(c)(2). Appellant also fails to cite facts controverted by the summary judgment record, if any exist. Instead, Appellant relies on allegations from her pleadings, which also fail to comply with the requirements of Rule 84.04(c), as they do not state with particularity the pages in the legal file where those averments may be found.² Such citations are "essential for the effective functioning of appellate courts because courts cannot spend time searching the record to determine if factual assertions in the brief are supported by the record." *Parkside Financial Bank & Trust v. Allen*, 688 S.W.3d 83, 87 (Mo. App. E.D. 2024) (internal quotation omitted).

Appellant's briefing deficiencies materially impede our ability to fairly and accurately review the point on the merits. *See Lexow v. Boeing Co.*, 643 S.W.3d 501, 508 (Mo. banc 2022). However, even if we had been able to do so, Appellant would not have prevailed, as under this record she fails to demonstrate the existence of disputed material facts, or that Respondents are not entitled to judgment as a matter of law. Point One is dismissed.

We dismiss Point Two because Appellant's Brief does not substantially comply with Rule 84.04

"A point relied on which does not state 'wherein and why' the [circuit] court ... [] erred does not comply with Rule 84.04(d) and preserves nothing for appellate review." *Lexow v. Boeing Co.*, 643 S.W.3d 501, 505 (Mo. banc 2022) (internal

quotation omitted). Because Appellant's Point Two fails to substantially comply with Rule 84.04(d) or (e) it preserves nothing for review and requires dismissal. *See id.* at 505–10. Rule 84.04(d)(1) requires that each point presented by Appellant shall: "(A) Identify the trial court ruling or action that the appellant challenges; (B) State concisely the legal reasons for the appellant's claim of reversible error; and (C) Explain in summary fashion why, in the context of the case, those legal reasons support the claim of reversible error."³

Appellant's second point on appeal merely states that "[t]he [circuit] court erred in not allowing plaintiff's motion to amend petition." This statement lacks the legal reasons and support for Appellant's claim. This places the Court in a position where it must interpret Appellant's reasoning, risking either misinterpreting Appellant or advocating for her. *See Murphy*, 658 S.W.3d at 591–92 (internal citation omitted). This point also fails to comply with Rule 84.04(e), as Appellant provides no preservation statement or standard of review within the argument section of the brief.⁴ *See R.M. v. King*, 671 S.W.3d 394, 399 (Mo. App. W.D. 2023) (finding claims of error with faulty preservation statements and standards of review violated the requirements of Rule 84.04(e), thus requiring dismissal). Moreover, the amended petition that Appellant argues the trial court erroneously excluded was not made part of our record, so we are unable to review it. For the foregoing reasons, Point Two is dismissed.

Conclusion

*4 The appeal is dismissed.

Gary M. Gaertner, Jr., Judge and James M. Dowd, Judge, concur.

All Citations

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Footnotes

1 All Rule references are to Missouri Supreme Court Rules (2018) unless otherwise specified.

- 2 Appellant's brief contains other deficiencies impeding appellate review, including multiple inaccurate or nonexistent caselaw citations. It also mistakenly denominates this Court as the "U.S. District Court for the Eastern District of Missouri," rather than our proper name "The Missouri Court of Appeals Eastern District."
- 3 Rule 84.04(d)(1) also provides a format for points on appeal, stating that, "The point shall be in substantially the following form: 'The trial court erred in [identify the challenged ruling or action], because [state the legal reasons for the claim of reversible error], in that [explain why the legal reasons, in the context of the case, support the claim of reversible error].' "
- 4 Appellant's argument section for her second point on appeal includes only one caselaw citation, "*B.M. [v.] J.S.*, 775 S.W. 2d 917 (Mo. App. W.P. 1989)," which this Court was unable to verify.

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