



# In the Missouri Court of Appeals Eastern District

## DIVISION TWO

MICHAEL HARRIS, ET AL.,                    )           ED113748  
                                                          )  
    Respondents,                            )  
                                                          )  
v.                                                    )  
                                                          )  
STARBUCKS CORPORATION,                )  
                                                          )  
    Appellant.                                )           Filed: March 3, 2026  
                                                          )

**Appeal from the Circuit Court of the City of St. Louis  
The Honorable Joseph P. Whyte, Judge**

Before: Michael S. Wright, Presiding Judge, Philip M. Hess, Judge, and Virginia W. Lay, Judge.

### INTRODUCTION

Starbucks Corporation (Starbucks) appeals from the circuit court’s denial of Starbucks’s combined motion to dismiss Counts IV and V—Michael Harris’s and Devin Jones-Ransom’s (collectively, Respondents) negligence claims against it—and/or to stay proceedings and compel arbitration. Because Starbucks failed to substantially comply

with Rule 84.04<sup>1</sup> as to Points One and Two, and because this Court does not have jurisdiction to review Points Three and Four, we dismiss the appeal.

### **FACTUAL AND PROCEDURAL BACKGROUND**

On September 27, 2024, Respondents filed their first amended petition alleging that on December 17, 2023, Respondents were working at the Starbucks location at 212 South Grand Boulevard when two gunmen—who were also named as defendants—attempted to rob the store. Respondents fought back and were able to subdue one of the gunmen with the help of another individual. The other gunman fled and was apprehended by police a short time later. In January of 2024, Starbucks terminated Respondents’ employment due to their conduct during the attempted robbery. Included in Respondents’ petition were claims for wrongful termination, hostile work environment, retaliation, three counts of negligence,<sup>2</sup> and two counts of assault and battery against the two gunmen.

Starbucks filed a combined motion requesting (1) dismissal of the two negligence claims against it based on the exclusivity provision of the Missouri Workers’

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<sup>1</sup> All rule references are to the Missouri Supreme Court Rules (2025).

<sup>2</sup> Two of Respondents’ negligence claims are against Starbucks. The first alleges a special relationship between Respondents and Starbucks while the second alleges special facts and circumstances in that Starbucks had a duty to protect its customers and employees from foreseeable third-party attacks. The third negligence count was against Union Square Enterprises, LLC, which owns and leases the 212 South Grand building to Starbucks.

Compensation Law<sup>3</sup> and (2) that the remaining claims be compelled to arbitration based on Mutual Arbitration Agreements between Starbucks and Respondents.

In support of its motion, Starbucks filed two affidavits of its director of recruiting which are summarized as follows: Starbucks requires all new hires to agree to arbitrate any claims arising out of their employment. As part of the application process, Respondents created profiles using their names, email addresses, and a unique password. After receiving job offers, but before they could begin work, Respondents were required to complete onboarding through an online system, Taleo. To access Taleo, Respondents had to use a unique username and password. After Respondents completed their first task—accepting their job offers on Taleo—they were prompted to enter their social security numbers and dates of birth. Respondents were also prompted to type their names to electronically sign (e-sign) the “e-signature Consent” page indicating their consent to receive and respond to information electronically and to execute documents with an e-signature.

Respondents’ final onboarding task was to view and e-sign Starbucks’s mutual arbitration agreement, which required re-entry of their passwords. Jones-Ransom’s arbitration agreement was e-signed on April 25, 2022. Harris’s was e-signed on July 18, 2023. Respondents began working the same day each of their respective arbitration agreements were e-signed. Upon completion of the arbitration agreement, emails were

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<sup>3</sup> “Missouri’s Workers’ Compensation Law pre-empts judicial resolution of tort claims arising ‘out of and in the course of’ employment[.]” *State ex rel. Larkin v. Oxenhandler*, 159 S.W.3d 417, 420 (Mo. App. W.D. 2005) (quoting section 287.120(1) RSMo (2000)).

automatically sent to Respondents' personal email addresses thanking them for completing the arbitration agreement. Attached to the emails were unsigned PDF copies of the agreement.

Respondents each filed affidavits in opposition to Starbucks's motion to dismiss and/or compel arbitration. Respondents claimed their store manager completed the entire onboarding process for them, which included signing in and clicking through all new hire tasks. Respondents attested they were unaware of the arbitration agreement and had not signed it, but did confirm they had received emails thanking them for completing the agreement.

On June 25, 2025, the circuit court denied Starbucks's motion in its entirety. As to the motion to dismiss, the court found it could not determine that workers' compensation exclusivity applies solely from the face of Respondents' petition or that Respondents' injuries were caused by an accident arising out of and in the course of their employment. Addressing Starbucks's argument that the court lacked subject matter jurisdiction, the court found the exclusivity provision did not affect its subject matter jurisdiction, noting the argument should be raised as an affirmative defense. Regarding the motion to compel arbitration, the court concluded Starbucks presented "little to no evidence to support a finding that the arbitration agreement at issue was offered to [Respondents], accepted by [Respondents], and that it was supported by consideration." The court noted the agreement appeared to be unsigned by any party and that there was no substantial evidence Respondents e-signed the agreement, and ultimately concluded Starbucks had

failed to meet its burden to prove the existence of a valid and enforceable arbitration agreement. This appeal follows.

## **DISCUSSION**

Starbucks raises four points on appeal. Points One and Two allege the circuit court erred in denying the motion to compel arbitration as to each Respondent. Points Three and Four argue the circuit court erred in denying a motion to dismiss each of Respondents' negligence claims. We dismiss Points One and Two for failure to substantially comply with Rule 84.04. We dismiss Points Three and Four because the denial of the motion to dismiss is not a final judgment and therefore this Court does not have jurisdiction to review these points.

### *Points One and Two – Arbitration Agreement*

In its first two points, Starbucks argues the circuit court erred in denying its motion to compel arbitration of both of Respondents' claims because the parties had an enforceable agreement to arbitrate those employment-related claims. However, because Starbucks provided the incorrect standard of review, we must dismiss these points.

Generally, whether a motion to compel arbitration should have been granted is reviewed de novo. *EM Med., LLC v. Stimwave LLC*, 626 S.W.3d 899, 906 (Mo. App. E.D. 2021). However, if there is a factual dispute as to the existence of an arbitration agreement and the circuit court holds an evidentiary hearing to determine whether an agreement exists, then appellate review is analogous to that of a court-tried case. *Id.* (quoting *Theroff v. Dollar Tree Stores, Inc.*, 591 S.W.3d 432, 436 (Mo. banc 2020)). In such a case, “the trial court’s decision will be affirmed unless there is no substantial

evidence to support it, it is against the weight of the evidence, it erroneously declares the law, or it erroneously applies the law.” *Id.*

When a party contests the existence of an arbitration agreement, the circuit court must conduct an evidentiary hearing to determine whether an agreement exists. *Id.* The court need not hear live testimony, and the requirements of the evidentiary hearing are satisfied if:

(1) the trial court is provided with adequate materials and evidence with which to resolve any factual disputes; and (2) there is no allegation the parties were limited in its submission of the evidence by the trial court or that the trial court failed to consider *any* evidence presented by the parties.

*Id.* (emphasis added); *see also Katz v. Anheuser-Busch, Inc.*, 347 S.W.3d 533, 546 (Mo. App. E.D. 2011) (trial court’s evidentiary hearing was sufficient when parties extensively briefed issues, submitted sworn affidavits, participated in oral argument; appellant did not allege the trial court limited submission of evidence or failed to consider evidence).

Starbucks posits it is entitled to de novo review because the trial court either ignored or failed to consider its evidence.<sup>4</sup> Starbucks further takes issue with the lack of live witness testimony and the timing of the filing of Respondents’ affidavits. However, the record clearly rebuts Starbucks’s allegations, and its complaints about the procedural nature of the hearing are of its own doing.

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<sup>4</sup> Starbucks raises the issue regarding the adequacy of the evidentiary hearing for the first time in its reply brief. However, issues first raised in an appellant’s reply brief are not preserved for appellate review. *In re Marriage of Hunter*, 614 S.W.2d 277, 278 (Mo. App. S.D. 1981).

It is apparent from the circuit court's order denying Starbucks's motion to compel arbitration that it weighed the evidence presented by both sides and determined Starbucks had failed to meet its burden to prove the existence of an arbitration agreement. The court found Starbucks presented "little to no evidence" that such an agreement was offered to or accepted by Respondents or that it was supported by consideration. The court further found the agreement appeared to be unsigned by any party and that there was no substantial evidence Respondents electronically signed the agreement.<sup>5</sup> Though Starbucks may disagree with the circuit court's decision and reasoning, its disagreement does not mean the court failed to consider or ignored its evidence. Rather, Starbucks simply failed to meet its burden.

Starbucks's complaints regarding the sufficiency of the evidentiary hearing are equally unpersuasive. Starbucks points to the lack of opportunity for the circuit court to judge credibility because there was no live witness testimony, but it did not offer any live witness testimony. Starbucks acknowledges live testimony may not be strictly required, but cites to *Nitro Distributing, Inc. v. Dunn*, 194 S.W.3d 339, 352 (Mo. banc 2006), a case where the court had thousands of pages of documents, affidavits, deposition transcripts, and other materials to consider.

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<sup>5</sup> Starbucks points to copies of the arbitration agreement purporting to have been electronically signed by Respondents and the emails subsequently sent to Respondents thanking them for completing the arbitration agreement and attaching a copy of the agreement. Starbucks, however, did not rebut Respondents' allegations in their affidavits that their manager electronically signed the agreements. It is also worth noting the copies attached to the confirmation emails were unsigned.

Starbucks did not offer thousands of pages of documents, choosing instead to present two affidavits from its director of recruiting—one for Harris and one for Jones-Ransom—and a total of fifteen accompanying exhibits. Both Respondents also filed affidavits.<sup>6</sup> Starbucks, which had the burden to prove the existence of an arbitration agreement, cannot now complain on appeal about the sufficiency of its hearing.

The circuit court’s evidentiary hearing was sufficient. Although there was no live testimony, the issue was extensively briefed, evidence was submitted through sworn affidavits and exhibits, and the parties orally argued their positions. *See Katz*, 347 S.W.3d at 546. Starbucks’s allegation that the court failed to consider its evidence is rebutted by the record. Because Respondents disputed the existence of an arbitration agreement and because the court held an evidentiary hearing, Points One and Two must receive a review “analogous to that in a court-tried case.” *EM Med., LLC*, 626 S.W.3d at 906.

Rule 84.04(e) requires an appellant to include the applicable standard of review for each claim of error. “Providing the appropriate standard of review is an essential portion of an appellant’s argument, as it outlines this Court’s role in disposing of the matter before us.” *Jackson v. Sykes*, 686 S.W.3d 393, 397 (Mo. App. E.D. 2024) (internal quotation omitted). “An appellant’s failure to comply with Rule 84.04(e) by including the applicable standard of review is grounds for dismissal.” *Id.* (internal

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<sup>6</sup> Respondents’ affidavits were filed the night before the hearing. Starbucks argues the timing undermined the usefulness of the hearing, but admits it did not request a continuance. Starbucks was granted additional time and did file a reply memorandum after the hearing.

quotation omitted). Although it would be easy enough for this Court to determine the proper standard of review, “it is not our duty to supplement the deficient brief with our own research.” *Bennett v. Taylor*, 615 S.W.3d 96, 99-100 (Mo. App. E.D. 2020) (internal quotation omitted).

Starbucks asserts our standard of review is de novo, but as outlined above, we are required to review this matter using the standard of review for court-tried cases set forth in *Murphy v. Carron*, 536 S.W.2d 30, 32 (Mo. banc 1976).<sup>7</sup> While it would be easy enough to select one of the *Murphy* challenges, that is not this Court’s role. *Bennett*, 615 S.W.3d at 99. Doing so would be further complicated by the multiple potential challenges under *Murphy*. In cases where appellants have raised multiple challenges under *Murphy v. Carron*, courts have discussed the difficulties of reviewing the multifarious point because,

each challenge involves a distinct analysis. A not-supported-by-substantial-evidence and an against-the-weight analysis are distinctly different. Each of these, in turn, is different from a claim that the trial court erroneously declared or applied the law. This means each *Murphy* ground is proved differently from the others *and* is subject to different principles and procedures of appellate review.

*Koeller v. Malibu Shores Condo. Ass’n, Inc.*, 602 S.W.3d 283, 287 (Mo. App. S.D. 2020) (internal quotation marks, citations, and brackets omitted).

Picking from the various prongs (1) sufficiency of the evidence, (2) against the weight of the evidence, (3) erroneous declaration of the law, or (4) erroneous application

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<sup>7</sup> Starbucks’s attorney stated at oral argument that he was not familiar with *Murphy v. Carron*, the seminal case which established the standard of review in court-tried cases nearly fifty years ago.

of the law and conducting an analysis would require us to become Starbucks's advocate and risks interpreting its claims differently than intended by Starbucks.<sup>8</sup> *See Pearson v. Keystone Temp. Assignment Grp., Inc.*, 588 S.W.3d 546, 552-53 (Mo. App. E.D. 2019) (“We cannot become advocates for an appellant by speculating about facts and arguments that have not been made. . . . If the appellate court must search the argument portion of the brief or the record on appeal to determine or clarify the nature of the asserted claims, the court may interpret the claims differently than the opponent or differently than was intended by the party asserting the claim.”).

Furthermore, while an appellate court may exercise discretion to review non-compliant briefs unless the deficiencies impede review, this is often done in cases where the court is able to discern the appellant's complaints from the argument portion of the point relied on. *See Jones v. Jones*, 285 S.W.3d 356, 359 n.5 (Mo. App. S.D. 2009). We are unable to discern the appropriate *Murphy* challenge from the argument portion of Starbucks's points. We are likewise not aided by Respondents' argument, which appears to analyze it under a sufficiency-of-the-evidence challenge.<sup>9</sup> Because we cannot

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<sup>8</sup> Starbucks, in its reply brief and perhaps in response to Respondent's posited standard of review, argued “even if a more deferential standard applied, the Circuit Court's erroneous application of the law to the evidence entitles Starbucks to reversal.” We cannot consider this argument however because “[a] claim of error first set forth in a reply brief does not present an issue for appellate review.” *In re Marriage of Hunter*, 614 S.W.2d at 278. In any event, Starbucks failed to develop its erroneous application of law argument.

<sup>9</sup> Respondents correctly state the standard of review is analogous to that of a court-tried case. It is unclear, however, which particular *Murphy* challenge they analyzed the issue under. While Respondents argue we owe substantial deference to the circuit court's findings regarding the sufficiency of Starbucks's evidence, we note that a sufficiency-of-the-evidence challenge by Starbucks, which had the burden of proof, would be improper. *See Koeller*, 602 S.W.3d at 287 (“Plaintiffs' contention that the judgment is not supported

advocate for Starbucks by selecting a standard of review, we must dismiss Points One and Two.

Even if we analyzed this case under *Murphy*, as Respondents attempt to do, the circuit court's judgment would not have warranted reversal. "When the parties challenge facts relevant to a particular issue, as they did here, this Court will defer to the circuit court's assessment of the evidence." *Theroff*, 591 S.W.3d at 437. The circuit court had before it two affidavits, one for each Respondent, from Starbucks's director of recruiting outlining the onboarding process, which included details about the reviewing and signing of arbitration agreements. Attached to those affidavits were numerous exhibits, including copies of arbitration agreements with Respondents' printed names above the signature line. Also before the court were affidavits from both Respondents attesting their store manager completed all of their onboarding tasks without their viewing, approving, or signing any form. Attached to Respondents' affidavits were copies of the confirmation email and the attached agreements, which were unsigned. Additionally, both sides briefed the issue, and the court heard oral argument. The court weighed the evidence and found Starbucks had failed to prove the existence of an arbitration agreement. Considering our deference to the circuit court's assessment of the evidence presented in this case, this Court cannot say otherwise.

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by substantial evidence fails because they had the burden of production and persuasion on their claim.").

*Points Three and Four – Motion to Dismiss*

In Points Three and Four, Starbucks claims the circuit court erred in denying Starbucks’s motion to dismiss Respondents’ negligence claims because the court lacks authority to proceed with them. Starbucks asserts Respondents’ alleged injuries meet the definition of “accident . . . arising out of and in the course of the employee’s employment” and must be addressed to the Labor and Industrial Relations Commission pursuant to the exclusivity provision of Missouri’s Workers’ Compensation Law. We dismiss Points Three and Four because we do not have jurisdiction to review the claims.

“The right to appeal is purely statutory.” *Rhodes v. Mo. Highways & Transp. Comm’n*, 718 S.W.3d 419, 422 (Mo. banc 2025) (citing *Anderson v. Metcalf*, 300 S.W.2d 377, 378 (Mo. 1957)); *see* section 512.020(5).<sup>10</sup> “It is the duty of reviewing courts to determine whether a final, appealable judgment has been entered. *Rhodes*, 718 S.W.3d at 422. “A final judgment is a legally enforceable judicial order that ‘disposes of all claims (or the last pending claim) in a lawsuit.’” *Id.* (quoting *Jefferson Cnty. 9-1-1 Dispatch v. Plaggenberg*, 645 S.W.3d 473, 475 (Mo. banc 2022)). The denial of a motion to dismiss is generally not a final judgment and therefore not reviewable. *Welsh v. Kansas City Pub. Schs.*, 608 S.W.3d 751, 753 (Mo. App. W.D. 2020). However, this Court may review the denial of a motion to dismiss “as part of the appeal from a final judgment.” *Id.* (internal quotation omitted).

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<sup>10</sup> All statutory references are to RSMo (2016), unless otherwise indicated.

Here, the circuit court’s denial of Starbucks’s motion to dismiss is not a final judgment, and Starbucks does not seek review of the denial as part of an appeal from a final judgment. Rather, Starbucks argues this Court’s jurisdiction arises pursuant to section 435.440, which permits an interlocutory appeal from “[a]n order denying an application to compel arbitration[.]” Section 435.440.1(1). Starbucks argues this Court has jurisdiction over the denial of the motion to dismiss because it was included in the order denying Starbucks’s motion to compel arbitration. Starbucks admits there is no Missouri case law on this issue, relying instead on *Donelson v. Ameriprise Financial Services, Inc.*, 999 F.3d 1080, 1086-87 (8th Cir. 2021), in which the Eighth Circuit found jurisdiction to review the district court’s denial of motions to strike class-action allegations because the denials were contained in an order denying motions to compel arbitration. In the absence of Missouri precedent to the contrary, we decline to extend this Court’s jurisdiction to review an order denying a motion to compel arbitration to include other interlocutory orders. Points Three and Four are dismissed.

#### CONCLUSION

For the reasons set forth above, we dismiss Starbucks’s appeal.

  
Virginia W. Lay, Judge

Michael S. Wright, Presiding Judge, concurs.  
Philip M. Hess, Judge, concurs.