NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

STAGELINE RANCHES, L.L.C., an Arizona limited liability company, Plaintiff/Appellee, v. RAYBURN T. COAWETTE, Defendant/Appellant.	2 CA-CV 2011-0186 DEPARTMENT A MEMORANDUM DECISION Not for Publication Rule 28, Rules of Civil Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. CV200801631

Honorable Steven J. Fuller, Judge
Honorable William J. O'Neil, Judge

AFFIRMED

Berens, Kozub, Kloberdanz & Blonstein, PLC
By Richard W. Hundley — Phoenix
Attorneys for Plaintiff/Appellee

Rayburn T. Coawette — Phoenix
In Propria Persona

E C K E R S T R O M, Presiding Judge.

¶1 Appellant Rayburn Coawette appeals from the grant of summary judgment in favor of appellee Stageline Ranches, L.L.C., on Stageline's quiet title claim. He argues the court erred by awarding fees on that claim, not striking Stageline's complaint, not allowing him to defend Berry Ranch Co., L.L.C., and quieting title to the land in Stageline by adverse possession. For the following reasons, we affirm the judgment.

Factual and Procedural Background

¶2 We generally conduct a de novo review in an appeal from the grant of summary judgment, and we view the facts in the light most favorable to the party against whom summary judgment was granted. *Delmastro & Eells v. Taco Bell Corp*., 228 Ariz. 134, ¶¶ 2, 8, 263 P.3d 683, 685-86, 687 (App. 2011). In 1957, Berry Ranch Co. conveyed land to Stageline Ranches.[1] The parcels were described in that deed as

> the Northwest quarter of Section Twenty-three (23), and those portions of the Southwest quarter of Section Fourteen (14), and the South half of Section Fifteen (15), which lie South of the Southerly right of way of the Southern Pacific Railroad, all in Township Four (4), South, Range Two (2) East of the Gila and Salt River Base and Meridian.

¶3 Coawette claimed he used a portion of section fifteen as a used car lot "for displaying and storing cars." He brought an action against Berry Ranch Co. to quiet title by adverse possession in 2006, but that claim was dismissed after the court found he had not proven his claim of ownership. Claims against Stageline, as intervenor, had been dismissed from that action without prejudice.

[1]Berry Ranch Co. actually conveyed the land to Stageline Ranches, Inc., which is the predecessor in interest to the party in this appeal, Stageline Ranches, L.L.C.

¶4 Berry Ranch Co. no longer exists nor is recognized as a corporation in Arizona. It apparently had been owned by L.W. Berry, and Coawette had no connection to that corporation. However, in January 2007, Coawette formed Berry Ranch Co., L.L.C., and in October of that year, recorded a quitclaim deed purportedly transferring title in a portion of section 15 from Berry Ranch Co., L.L.C., to himself. In March and April 2008, Stageline sent letters to Coawette informing him of its interest in the property and tendering a quitclaim deed and five dollars for Coawette to "confirm that [he] hold[s] no interest" in Stageline's property. In response, Coawette recorded another quitclaim deed, transferring a portion of section 15 from himself back to Berry Ranch Co., L.L.C.

¶5 In May 2008, Stageline filed a complaint against Berry Ranch Co., Coawette, and Berry Ranch Co., L.L.C, to quiet title by adverse possession to part of the land Coawette had attempted to transfer to himself. It also alleged Coawette and Berry Ranch Co., L.L.C., had violated A.R.S. § 33-420 when they filed false documents, i.e., the 2007 quitclaim deed transferring a portion of section fifteen. Stageline amended its complaint in March 2009, before Coawette had filed his answer, to include claims for declaratory judgment and quiet title based on an alleged scrivener's error in Stageline's 1957 deed describing its parcel incorrectly. L.W. Berry, his wife, and their unknown heirs also were added as defendants, and default judgment later was entered against them. Stageline also moved to strike the answer and counterclaim filed by Coawette on behalf of Berry Ranch Co., L.L.C. The trial court granted the motion, and judgment was entered against Berry Ranch Co., L.L.C., on the declaratory judgment and quiet title claims, as

well as the false recording claim. Berry Ranch Co., L.L.C., also was ordered to pay Stageline's attorney fees in the amount of $4,185.62 and costs of $338.

¶6 Stageline moved for summary judgment against Coawette on its false recording claims and its claim to quiet title based on the scrivener's error.[2] The court granted the motion on Stageline's claim for quiet title but found an issue of material fact precluding summary judgment on the false recording claims. Stageline then moved to dismiss those claims, and the court granted the motion.[3] Stageline filed its application and affidavit for attorney fees and a memorandum of costs. The court entered judgment in favor of Stageline, including attorney fees in the amount of $13,406.51 and costs of $1,223.51. This timely appeal followed.

Attorney Fees against Coawette

¶7 Coawette argues the trial court erred when it awarded Stageline its attorney fees pursuant to A.R.S. § 33-420. We review de novo whether a court is authorized to award attorney fees in a particular case. *Camelback Plaza Dev., L.C. v. Hard Rock Cafe Int'l (Phx.), Inc.*, 200 Ariz. 206, ¶ 4, 25 P.3d 8, 10 (App. 2001). As Stageline points out, the record is clear the attorney fees in this case were awarded under A.R.S. § 12-1103(B) and not § 33-420. In an action to quiet title,

> [i]f a party, twenty days prior to bringing the action . . . requests the person . . . holding an apparent adverse interest or right therein to execute a quit claim deed thereto, and also

[2]Stageline did not move for summary judgment on its adverse possession claim.

[3]Although only two of the three § 33-420 claims were expressly dismissed, we need not decide whether any outstanding claims remain under § 33-420 because the judgment contained finality language pursuant to Rule 54(b), Ariz. R. Civ. P.

> tenders to him five dollars for execution and delivery of the deed, and if such person refuses or neglects to comply, the filing of a disclaimer of interest or right shall not avoid the costs and the court may allow plaintiff, in addition to the ordinary costs, an attorney's fee to be fixed by the court.

§ 12-1103(B).

¶8 Here, the application and affidavit for attorney fees cited § 12-1103(B). Although Stageline reported in its statement of facts supporting summary judgment that a quitclaim deed had been sent to Coawette pursuant to § 33-420(C)—the exhibit referred to in that statement—the letter sent to Coawette requesting he release his claim to the property, actually states that

> enclosed is a quit claim deed tendered pursuant to A.R.S. § 12-1103(b) by which you can confirm that you hold no interest in the Stageline Claim. If you refuse to execute the quit claim deed within twenty (20) days of the date of this letter, my client will be entitled to an award of attorneys' fees incurred in the lawsuit to quiet title to the Stageline Claim.

¶9 Moreover, even if Stageline's request had not been clear, because the trial court ultimately dismissed the false recording claims, we presume it would not have awarded the fees under § 33-420. *See Maher v. Urman*, 211 Ariz. 543, ¶ 13, 124 P.3d 770, 775 (App. 2005) (appellant must overcome presumption trial court knows and follows law).

¶10 Coawette argues in passing, and without supporting authority, that Stageline's "§ 12-1103 claim arises from A.R.S. § 33-420." But even if the two claims are related, Coawette has not explained how that would preclude the trial court from granting attorney fees properly sought under § 12-1103(B). Coawette also contends in

passing that Stageline's claim for attorney fees under § 12-1103(B) fails because he did not have an "apparent" interest in the property. Because Coawette has not supported his argument with authority or otherwise adequately developed it, we do not address it. *See Polanco v. Indus. Comm'n*, 214 Ariz. 489, n.2, 154 P.3d 391, 393 n.2 (App. 2007) (appellant's failure to develop and support argument waives issue on appeal). We find no error in the award of attorney fees under § 12-1103(B).

Amended Complaint

¶11 Coawette argues the trial court erred when it allowed Stageline "to prosecute this case with an illegal Amended Complaint" in violation of Rule 15(a), Ariz. R. Civ. P. In general, we review a trial court's ruling on a motion to amend a pleading for an abuse of discretion. *See Valley Farms, Ltd. v. Transcon. Ins. Co.*, 206 Ariz. 349, ¶ 6, 78 P.3d 1070, 1073 (App. 2003). Coawette contends the amendment was made without leave of the court and without his consent. But, as the court correctly noted, Stageline was allowed to amend its complaint as a matter of right because Coawette had not yet filed his answer. *See* Ariz. Sup. Ct. Order No. R-06-0009 (Sept. 5, 2007) (former Rule 15(a)); 154 Ariz. LXVIII (1987 amendment to Rule 15(a) showing relevant text); *City of Mesa v. Carter Hawley Hale Stores, Inc.*, 166 Ariz. 420, 422, 803 P.2d 141, 143 (Tax Ct. 1990) (amendment allowed before answer filed).[4] Coawette appears to base his argument, in part, on the erroneous assumption that his motion to dismiss the original

[4]The current version of Rule 15(a) did not go into effect until January 1, 2012, after the final judgment was entered in this case. Thus, we apply the prior version of the rule. *See* Ariz. R. Civ. P. 81 (rules "govern all actions or proceedings brought after they take effect").

complaint was a responsive pleading. *See Douglas N. Higgins, Inc. v. Songer*, 171 Ariz. 8, 10, 827 P.2d 469, 471 (App. 1991) (motion to dismiss not responsive pleading under Rule 15(a)). Thus, although Stageline filed a motion to amend the complaint, it need not have done so, and it did not need either Coawette's or the court's consent to proceed with its amended complaint.

¶12 Coawette also complains that Stageline did not comply with the requirement of Rule 15(a)(2) that it "attach a copy of the proposed amended pleading as an exhibit to the motion, which shall indicate in what respect it differs from the pleading that it amends, by bracketing or striking through the text to be deleted and underlining the text to be added." But, as stated, Stageline was entitled to amend its pleading as a matter of course, and, therefore, the requirement that Stageline highlight the changes from its original complaint does not apply. *See* Ariz. R. Civ. P. 15(a)(2) (only "party who moves for leave to amend a pleading" must include proposed amendment with changes shown). The trial court did not err in allowing Stageline to proceed with its amended complaint.

Attorney Fees against Berry Ranch Co., L.L.C.

¶13 Coawette argues the trial court erred when it awarded attorney fees against Berry Ranch Co., L.L.C., after finding that Coawette could not represent the limited liability company. He also seems to be arguing the trial court erred in finding he could not represent the L.L.C. But Berry Ranch Co., L.L.C., never appealed the judgment against it. Accordingly, this court has no jurisdiction to decide issues that arise from that judgment. *See Flagstaff Vending Co. v. City of Flagstaff*, 118 Ariz. 556, 561, 578 P.2d 985, 990 (1978); *Lee v. Lee*, 133 Ariz. 118, 124, 649 P.2d 997, 1003 (App. 1982).

Title by Adverse Possession

¶14 Finally, Coawette argues the trial court erred in awarding Stageline title based on adverse possession. But Stageline was not awarded title based on adverse possession. And Coawette does not argue Stageline did not prove title on its quiet title theory—that it held title all along despite a scrivener's error in the original deed.[5] Thus, Coawette has not met his burden to show the judgment is wrong. *See Gen. Elec. Capital Corp. v. Osterkamp*, 172 Ariz. 191, 193, 836 P.2d 404, 406 (App. 1992) (initial presumption on appeal judgment correct; burden on party who disagrees to show otherwise).

Disposition

¶15 The judgment is affirmed.

/s/ Peter J. Eckerstrom
PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Judge

[5]In his section entitled "Statement of the Case," Coawette makes a passing reference to the lack of evidence proving Stageline held "deed title to the subject property." He does not develop this contention further in the argument section of his brief, however, and we therefore do not address it. *See* Ariz. R. Civ. App. P. 13(a)(6) (brief must contain argument section with "contentions of the appellant with respect to the issues presented"); *see also In re Marriage of Williams*, 219 Ariz. 546, ¶ 13, 200 P.3d 1043, 1046 (App. 2008) (persons representing themselves held to same standard as attorneys for following rules of procedure).