

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

FILED BY CLERK

JUL 26 2012

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

JOHN H. SHUFELT,)	2 CA-CV 2012-0024
)	DEPARTMENT A
Plaintiff/Appellant,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 28, Rules of Civil
NANCY CRISWELL, PAT CLARK,)	Appellate Procedure
LAURA FRAIJO, STEVE FRAZIER,)	
JAYNE LONG, and VIRGINIA)	
MACGILLIVRAY,)	
)	
Defendants/Appellees.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. CV201003839

Honorable Bradley M. Soos, Judge Pro Tempore

AFFIRMED

John H. Shufelt

Maricopa
In Propria Persona

Moyes Sellers & Hendricks
By Steve L. Wene

Phoenix
Attorneys for Defendants/Appellees

HOWARD, Chief Judge.

¶1 Appellant John Shufelt appeals from the trial court’s grant of summary judgment against him¹ and in favor of appellees Nancy Criswell, Pat Clark, Laura Fraijo, Steve Frazier, Jayne Long, and Virginia MacGillivray. Because Shufelt has waived his arguments, we affirm.

Factual and Procedural Background

¶2 Shufelt, along with others, sued appellees in the Maricopa/Stanfield Justice Court, but the case ultimately was transferred to Pinal County Superior Court. Shufelt filed an amended complaint alleging he and other plaintiffs, rather than appellees, had been elected to the board of directors of Maricopa Mountain Water Company. He requested the trial court grant declaratory judgment finding plaintiffs to be the directors and award damages for appellees’ intentional interference with a business relationship as well as fees and costs. Appellees filed a motion for summary judgment and Shufelt responded. Following oral argument, the court granted appellees’ motion, awarded them attorney fees, and entered a final judgment. This appeal followed.

Discussion

¶3 Shufelt appears to contend the trial court erred by considering “un-related” issues and permitting appellees to present such arguments. But Shufelt has failed to comply with our rules. Those rules require that his opening brief contain: a table of

¹Only Shufelt signed the notice of appeal, although another plaintiff, Alice Shoaf, filed a notice of appearance, opening brief, and reply brief. Shufelt is not an attorney and, therefore, could not represent Shoaf in the notice of appeal. *State v. 1810 E. Second Ave.*, 193 Ariz. 1, 2 n.1, 969 P.2d 166, 167 n.1 (App. 1997). Because Shoaf has not filed a valid notice of appeal, we do not have jurisdiction over any appeal by her. *See id.* And, because Shoaf is not an attorney, she cannot represent Shufelt on appeal in the briefs she has filed. *See id.* Thus, we do not consider Shoaf’s appellate briefs.

contents, a table of citations, a statement of the case, a statement of facts with citations to the record, a statement of issues presented for review, and a conclusion. Ariz. R. Civ. App. P. 13(a)(1), (2), (3), (4), (5), (7). Furthermore, his argument does not identify clearly “the issues presented” nor does it include “citations to the authorities, statutes and parts of the record relied on.” Ariz. R. Civ. App. P. 13(a)(6). Thus, he has waived his argument on appeal. See *Polanco v. Indus. Comm’n*, 214 Ariz. 489, n.2, 154 P.3d 391, 393-94 n.2 (App. 2007) (argument waived when appellant fails to develop and support it); see also *In re Marriage of Williams*, 219 Ariz. 546, ¶ 13, 200 P.3d 1043, 1046 (App. 2008) (unrepresented parties held to same standards as attorneys); *FIA Card Servs., N.A. v. Levy*, 219 Ariz. 523, 524 & n.1, 200 P.3d 1020, 1021 & n.1 (App. 2008) (waiving argument for failure to develop by unrepresented party).

Attorney Fees

¶4 Appellees request costs and attorney fees on appeal as the successful party to an action arising out of a contract, pursuant to A.R.S. §§ 12-341 and 12-341.01(A).² Costs incurred on appeal may be recovered pursuant to A.R.S. § 12-342 rather than § 12-341. *Motzer v. Escalante*, 228 Ariz. 295, ¶ 17, 265 P.3d 1094, 1097 (App. 2011). We grant appellees their request for costs and reasonable attorney fees upon compliance with Rule 21, Ariz. R. Civ. App. P.

²Appellees also request attorney fees pursuant to § 12-341.01(C) for a claim which “constitutes harassment, is groundless and is not made in good faith.” 1999 Ariz. Sess. Laws, ch. 140, § 1. The legislature recently has removed § 13-341.01(C) and enacted a new statute permitting attorney fees in an unjustified action. 2012 Ariz. Sess. Laws, ch. 305, §§ 1, 2. However, because we award attorney fees under § 13-341.01(A), we need not consider this basis for awarding fees.

Conclusion

¶5 For the foregoing reasons, we affirm the trial court’s grant of summary judgment in favor of appellees.

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

CONCURRING:

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

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