DIVISION ONE
FILED: 06/26/2012
RUTH A. WILLINGHAM, CLERK
BY: sls

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

CAROLYN WISE JOHNSON-BEY,	)	1 CA-CV 11-0340
	)	
Plaintiff/Appellant,	)	DEPARTMENT B
	)	
v.	)	**MEMORANDUM DECISION**
	)	(Not for Publication -
GLENDALE POLICE DEPARTMENT;	)	Rule 28, Arizona Rules
CITY OF GLENDALE,	)	of Civil Appellate
	)	Procedure)
Defendants/Appellees.	)	

Appeal from the Superior Court in Maricopa County

Cause No. CV2011-070181

The Honorable Harriett E. Chavez, Judge

AFFIRMED

Carolyn Wise Johnson-Bey — Mesa
Appellant

Michael J. Garcia, Glendale City Attorney — Glendale
By Christina A. Parry, Assistant City Attorney
Attorneys for Appellees

O R O Z C O, Judge

¶1 Appellant/Plaintiff Carolyn Johnson-Bey appeals the dismissal of her tort claims against Appellee/Defendant City of Glendale (Glendale). The trial court dismissed Appellant's claims in part because she failed to file a notice of claim

pursuant to Arizona Revised Statutes (A.R.S.) section 12-821.01.A (2003) (the Notice of Claim Statute). Because Appellant failed to properly file a notice of claim, we affirm the dismissal.

PROCEDURAL AND FACTUAL HISTORY

¶2 Appellant's claims arise out of the Glendale Police Department's arrest of her husband at the couple's residence on March 23, 2010. Appellant claims the police department used excessive force during the arrest, and, as a result, she and her husband sustained various physical and emotional injuries.

¶3 Sometime after June 21, 2010, Plaintiff hand-delivered a series of documents to the Glendale Risk Management Department. The documents alleged the police department committed "collateral negligence," "contributory negligence," and "gross negligence" and sought $75 million in damages. In response, Glendale Risk Assessment Manager Gary Fry sent a letter denying Appellant's claims and her request for compensation.

¶4 On January 3, 2011, Appellant filed a Complaint against Glendale alleging "negligence," "tort liability," and conspiracy to illegally enter her residence. On March 1, Glendale filed a Motion to Dismiss, which the trial court

granted on April 5. Appellant appealed[1] and this court has jurisdiction pursuant to A.R.S. §§ 12-120.21 (2003) and 12-2101.A.1 (Supp. 2011).

DISCUSSION[2]

¶5 We review a trial court's grant of a motion to dismiss for an abuse of discretion but review de novo whether the court properly interpreted and applied the law. *Dressler v. Morrison,* 212 Ariz. 279, 281, ¶ 11, 130 P.3d 978, 980 (2006); *see DeVries*

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[1] The trial court did not sign the April 5, 2011 ruling in which it dismissed Appellant's claim. Thus, the ruling was not a final, appealable order when Appellant filed the notice of appeal on April 25, 2011. *See* Ariz. R. Civ. P. 58(a). Pursuant to *Eaton Fruit Co. v. Cal. Spray–Chem. Corp.,* 102 Ariz. 129, 130, 426 P.2d 397, 398 (1967), this court suspended the appeal and revested jurisdiction in the superior court for the entry of a signed, appealable order. Such an order was entered on August 26, 2011, and the appeal was automatically reinstated.

[2] Appellant's briefs do not comply with Rule 13(a) of the Arizona Rules of Civil Appellate Procedure (ARCAP). The briefs are difficult to understand, do not cite to the record on appeal, and are virtually devoid of relevant legal argument or citation to legal authority. *See* ARCAP 13(a)(6) (appellant's brief shall contain arguments "with citations to the authorities, statutes and parts of the record relied on").

Although Appellant is a non-lawyer representing herself, she is held to the same standards as a qualified attorney, s*ee, e.g.*, *Old Pueblo Plastic Surgery, P.C. v. Fields,* 146 Ariz. 178, 179, 704 P.2d 819, 820 (App. 1985), and her failure to comply with the procedural rules limits our ability to evaluate her arguments or otherwise address her claims. *See, e.g.*, *In re U.S. Currency in Amount of $26,980.00,* 199 Ariz. 291, 299, ¶ 28, 18 P.3d 85, 93 (App. 2000) (refusing to consider bald assertions offered without elaboration or citation to legal authority); *Brown v. U.S. Fid. & Guar. Co.,* 194 Ariz. 85, 93, ¶ 50, 977 P.2d 807, 815 (App. 1998) (rejecting assertions made without supporting argument or citation to authority).

v. State, 221 Ariz. 201, 204, ¶ 6, 211 P.3d 1185, 1188 (App. 2009). We also review de novo whether a party's notice of claim complies with the requirements of the Notice of Claim Statute. *Jones v. Cochise Cnty.,* 218 Ariz. 372, 375, ¶ 7, 187 P.3d 97, 100 (App. 2008).

¶6 The Notice of Claim Statute requires that claims against a public entity be filed "with the person or persons authorized to accept service for the public entity or public employee as set forth in the Arizona rules of civil procedure." A.R.S. § 12–821.01.A. Rule 4.1(i) of the Arizona Rules of Civil Procedure designates the "chief executive officer, the secretary, clerk, or recording officer" as the persons authorized to accept service on behalf of a public entity.

¶7 Because compliance with the statute is a precondition to bringing an action against a public entity, the failure to properly file a notice of claim acts as a complete bar to the claim. *See Falcon ex rel. Sandoval v. Maricopa Cnty.,* 213 Ariz. 525, 527, ¶ 10, 144 P.3d 1254, 1256 (2006); *Salerno v. Espinoza,* 210 Ariz. 586, 589, ¶ 11, 115 P.3d 626, 629 (App. 2005). In addition, actual notice and substantial compliance do not excuse failure to comply with the statutory requirements. *See Martineau v. Maricopa Cnty.,* 207 Ariz. 332, 335, ¶¶ 15-17, 86 P.3d 912, 915 (App. 2004).

¶8 In this case, the trial court found that Appellant did not comply with the requirements of the Notice of Claim Statute because she failed to file a notice of claim with the individuals designated in Rule 4.1(i). Based on our review of the record, we cannot say the trial court erred. Even if we assume the documents Appellant filed with the Glendale Risk Management Department met the substantive requirements of the Notice of Claim Statute, *see Backus v. State*, 220 Ariz. 101, 104, ¶ 10, 203 P.3d 499, 502 (2009), there is no evidence in the record that Appellant properly filed the documents with the individuals designated in Rule 4.1(i).[3] Moreover, Appellant does not appear to contest the finding that she failed to comply with the requirements of the Notice of Claim Statute. We therefore affirm the dismissal of Appellant's claims on the ground that she failed to properly file a notice of claim.

CONCLUSION

[3] Although a handwritten document entitled "Judicial Notice of Action" was attached to Appellant's Complaint, there is nothing in the record to indicate that Appellant properly filed the document with the individuals designated in Rule 4.1(i). The Notice of Claim Statute requires that claims against public entities be filed within 180 days of the accrual of the cause of action. A.R.S. § 12–821.01.A. Here, it is undisputed that Appellant's cause of action accrued on March 23, 2010. In order to comply with the statute, Appellant should have filed her claim with the individuals designated in Rule 4.1(i) by September 19, 2010. As that deadline has expired, Appellant cannot cure her failure to follow the requirements of the statute.

¶9 For the foregoing reasons, we affirm the trial court's dismissal of Appellant's claims.

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PATRICIA A. OROZCO, Presiding Judge

CONCURRING:

/S/
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PATRICIA K. NORRIS, Judge

/S/
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PETER B. SWANN, Judge