

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



DIVISION ONE
FILED: 11/13/2012
RUTH A. WILLINGHAM,
CLERK
BY: sls

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

JULIE HAIGH,) 1 CA-CV 12-0152
)
Plaintiff/Appellant,) DEPARTMENT D
)
v.) **MEMORANDUM DECISION**
)
HELEN E. STEELE,) (Not for Publication -
) Rule 28, Arizona Rules of
Defendant/Appellee.) Civil Appellate Procedure)
)
_____)

Appeal from the Superior Court in Mohave County

Cause No. L8015CV20067023

The Honorable Randolph A. Bartlett, Judge

AFFIRMED

Julie A. Haigh
In Propria Persona

Lake Havasu City

Gannon & Associates
By Thomas P. Gannon
Attorneys for Defendant/Appellee

Tempe

G O U L D, Judge

¶1 Plaintiff/Appellant Julie Haigh appeals the superior court's order dismissing with prejudice her negligence claim

against Defendant/Appellee Helen E. Steele. For the following reasons, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

¶2 Haigh brought this action for negligence against Steele after the parties were involved in a pedestrian/vehicle collision. The superior court set the matter for a two-day jury trial to be held on February 9, 2012. Prior to trial, Steele moved in limine to preclude Haigh from offering any expert opinions to support her claims because she had not disclosed any such opinions and asked the court to preclude Haigh from offering her medical records in evidence because she had not disclosed any witnesses who could offer the proper foundation for those documents. The court granted the motion and Steele's subsequent motion for a directed verdict.

¶3 Haigh timely appealed.

¶4 We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") section 12-2101(A)(1) (Supp. 2011).

ISSUES

¶5 Haigh challenges the superior court's dismissal of her claim against Steele.

DISCUSSION

¶6 Haigh contends the court erred by granting the motion in limine because it was neither timely filed nor properly served. We review the order granting the motion for an abuse of

discretion. *Warner v. Sw. Desert Images, LLC*, 218 Ariz. 121, 133, ¶ 33, 180 P.3d 986, 998 (App. 2008).

¶7 The court's trial-setting order required the parties to file motions in limine at least thirty days prior to the February 9, 2012 trial date. Accordingly, Steele's motion was timely filed on December 28, 2011. Moreover, Steele properly served her motion in limine on Haigh by mailing it to her on December 27, 2011. See Ariz. R. Civ. P. 5(c)(2)(C) (service of document on a party who has appeared in an action is accomplished by mailing the document via United States mail to the party's last known address).¹ Further, Haigh did not dispute that she had not disclosed any expert witnesses or opinions, as required by the Arizona Rules of Civil Procedure, and stated she "had no intention [of] using any expert witnesses" at trial. The court therefore did not abuse its discretion by granting the motion. *Warner*, 218 Ariz. at 133, ¶ 33, 180 P.3d at 998.

¶8 Because the court properly granted the motion in limine, we find no error in its ruling granting Steele's motion for a directed verdict. *Warner*, 218 Ariz. at 127, ¶ 8, 180 P.3d at 992 (stating appellate court reviews de novo an order granting a directed verdict). Without any evidence the

¹ Although Haigh complains Steele knew she was out of town and did not send the motion to her via e-mail, Steele was not required to do so. See Ariz. R. Civ. P. 5(c).

collision caused her alleged injuries,² Haigh could not sustain her burden of proof at trial. See *Gipson v. Kasey*, 214 Ariz. 141, 143, ¶ 9, 150 P.3d 228, 230 (2007) (stating one of the elements a plaintiff must prove to establish a claim for negligence is a causal connection between the defendant's conduct and the resulting injury); *Robertson v. Sixpence Inns of Am., Inc.*, 163 Ariz. 539, 546, 789 P.2d 1040, 1047 (1990) (stating court may properly enter a directed verdict when plaintiff's evidence does not establish a causal connection, leaving causation to the jury's speculation). Haigh never asserted she had sufficient evidence to prove causation without expert witness testimony, and therefore that issue is not properly before us. See *Winters v. Ariz. Bd. of Educ.*, 207 Ariz. 173, ¶ 13, 83 P.3d 1114, 1118 (App. 2004) (appellate argument waived if not first raised with trial court).

¶9 Finally, Haigh argues the court erred by dismissing her action because she accepted Steele's offer of judgment on December 26, 2011. We decline to consider this argument, which Haigh first raised in her reply in support of her motion for reconsideration. *Ramsey v. Yavapai Family Advocacy Ctr.*, 225 Ariz. 132, 137, ¶ 18, 235 P.3d 285, 290 (App. 2010) (stating

² There were unusual causation issues in that Haigh suffered from a hematoma on the left side of her body, but the vehicle struck her on the right side.

appellate court generally does not consider arguments raised for the first time in a motion for reconsideration).

CONCLUSION

¶10 For the foregoing reasons, we affirm.

/s/ _____
ANDREW W. GOULD, Judge

CONCURRING:

/s/ _____
MICHAEL J. BROWN, Presiding Judge

/s/ _____
DONN KESSLER, Judge