

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

COREY LEWIS, *Plaintiff/Appellant*,

v.

SANCTUARY BAIL BONDS, LLC, *Defendant/Appellee*.

No. 1 CA-CV 14-0453
FILED 5-21-2015

Appeal from the Superior Court in Maricopa County
No. CV2013-000010
The Honorable John Christian Rea, Judge

AFFIRMED

COUNSEL

Corey Lewis, Phoenix
Plaintiff/Appellant

Law Office of David Dow, Phoenix
By David W. Dow
Counsel for Defendant/Appellee

MEMORANDUM DECISION

Presiding Judge Kent E. Cattani delivered the decision of the Court, in
which Judge Lawrence F. Winthrop and Judge Peter B. Swann joined.

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C A T T A N I, Judge:

¶1 Corey Lewis appeals from the superior court's judgment in favor of Sanctuary Bail Bonds, LLC ("Sanctuary"). For reasons that follow, we affirm.

FACTS AND PROCEDURAL BACKGROUND

¶2 In March 2012, Sanctuary posted a bond on behalf of Lewis, and Lewis used his car as collateral to secure repayment. Lewis was later arrested and the car was impounded. Sanctuary retrieved the car from impound two weeks later, then stored it for almost three weeks.

¶3 When Lewis's sister paid Sanctuary and recovered the car, the driver's window had been broken, and there was additional damage Lewis claimed had occurred after the car was impounded. Lewis also claimed that personal property had been taken from inside the car. Sanctuary paid to replace the window, but refused to pay for any other damage or loss.

¶4 Lewis filed a civil complaint in superior court seeking compensation for the damage to the car and for a laptop and audio equipment he alleged were stolen from the car. The case was referred to compulsory arbitration, and the arbitrator found nominally in favor of Lewis but awarded no damages.

¶5 Lewis thereafter sought a de novo trial before the superior court. *See* Ariz. R. Civ. P. 77(c). Before trial, Lewis filed several motions seeking to subpoena witnesses to testify in person or for depositions upon written questions. The court directed Lewis to the procedures set forth in Rules 31 and 45 of the Arizona Rules of Civil Procedure to effectuate the depositions and subpoenas without court order:

The Motions to Take Deposition Testimony Upon Written Questions are based on Civil Rule 31. Under the Rule, no motion is required. Plaintiff simply must comply with the procedures in the Rule. If Plaintiff complies with the procedures in the rule, the depositions will proceed without court involvement. Because the witnesses whose depositions are sought are not parties to the action, subpoenas are required. Rule 45 governs the form, issuance, and service of subpoenas. No order from the Court is required, and the Court does not aid parties in the preparation of their cases. Therefore, the Court takes no action on the three Motions to

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Take Testimony and the three Motions to Subpoena Witnesses.

¶6 At the bench trial, Lewis testified on his own behalf, but presented no other witnesses or exhibits. Noting that Lewis had no personal knowledge of when or how the damage occurred, the court ruled that Lewis had failed to present sufficient evidence that the damage had occurred while Sanctuary had possession of the car or that Sanctuary had improperly taken possession of the car.

¶7 Lewis appealed from the judgment in favor of Sanctuary. We have jurisdiction under Article 6, Section 9, of the Arizona Constitution and Arizona Revised Statutes (“A.R.S.”) §§ 12-120.21(A)(1) and -2101(A)(1).¹

DISCUSSION

¶8 Lewis argues the superior court erred by failing to subpoena the witnesses he requested. But the court was not responsible for doing so. Under Arizona Rule of Civil Procedure 45(a)(2), Lewis could have procured the requisite subpoenas from the Clerk’s Office without court order. Moreover, the superior court informed Lewis that no court order was necessary and directed Lewis to Rule 31 (for taking a deposition upon written questions) and Rule 45 (for issuance of subpoenas). Although Lewis argues that he raised the issue of “missing depositions and subpoenas” during trial, he has not provided a transcript of the proceedings to support his contention, or to establish that the court responded improperly. *See* ARCAP 11(c)(1)(A) (noting the appellant’s duty to order transcripts necessary for resolution of issues on appeal). Thus, his claim fails.

¶9 Lewis also argues that the court improperly continued the trial due to a conflict on its calendar, which Lewis alleges caused the absence of a witness (who did not have enough time to request a day off for the new trial date). Lewis did not, however, object to the new trial date or request a continuance to secure the attendance of the witness. Accordingly, the superior court did not err.

¶10 Sanctuary requests an award of attorney’s fees under A.R.S. § 12-349. We deny the request. As the prevailing party, however, Sanctuary is entitled to its costs on appeal upon compliance with ARCAP 21.

¹ Absent material revisions after the relevant date, we cite a statute’s current version.

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CONCLUSION

¶11 The judgment is affirmed.



Ruth A. Willingham · Clerk of the Court
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