

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

JAMES-LAWRENCE; BROWN AND BRENDA-LYNN; CRATER
Plaintiffs/Appellants,

v.

ARTHUR MARKHAM, PATRICIA TREBESCH, ANNA YOUNG, SHEILA
POLK, CELE HANCOCK/CELE AMOS, TINA AINLEY, MICHAEL BLUFF,
JENNIFER CAMPBELL, ANNA MARY GLAAB, JOSEPH GOLDSTEIN, ROSS
JACOBS, KENTON JONES, DAVID MACKEY, SCOTT MASCHER, PAMELA
PEARSALL, KEVIN SCHIFF, AND DEAN TREBESCH,
Defendants/Appellees.

No. 2 CA-CV 2014-0048
Filed August 14, 2014

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c); Ariz. R. Civ. App. P. 28(c).

Appeal from the Superior Court in Yavapai County
No. V1300CV201380328
The Honorable Mark H. Brain, Judge

AFFIRMED

COUNSEL

James-Lawrence; Brown, Camp Verde
Brenda-Lynn; Crater, Camp Verde
In Propria Persona

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Thomas C. Horne, Arizona Attorney General
By Brock Heathcotte, Assistant Attorney General, Phoenix
Counsel for Defendants/Appellees Patricia Trebesch, Anna Young, Cele Hancock/Cele Amos, Tina Ainley, Michael Bluff, Jennifer Campbell, Joseph Goldstein, and David Mackey

Sheila Sullivan Polk, Yavapai County Attorney
By Benjamin D. Kreutzberg, Deputy County Attorney, Prescott
Counsel for Defendants/Appellees Arthur Markham, Sheila Polk, Anna Mary Glaab, Ross Jacobs, Scott Mascher, Pamela Pearsall, Kevin Schiff, and Dean Trebesch

MEMORANDUM DECISION

Judge Howard authored the decision of the Court, in which Presiding Judge Kelly and Judge Vásquez concurred.

H O W A R D, Judge:

¶1 Appellants James Brown and Brenda Crater appeal from the trial court’s grant of the State of Arizona¹ and County² Appellees’ (hereinafter “Appellees”) motions to dismiss. On appeal, Brown and Crater argue the trial court erred in concluding they did not have standing and that they failed to state a claim. Because Brown and Crater lack standing, we affirm.

¹The State of Arizona defendants include Yavapai County Superior Court judges or former judges Patricia Trebesch, Anna Young, Cele Hancock, Tina Ainley, Michael Bluff, Jennifer Campbell, Joseph Goldstein, Kenton Jones, and David Mackey.

²Yavapai County defendants include Prescott Justice of the Peace Arthur Markham, County Attorney Sheila Polk, Bagdad and Yarnell Justice of the Peace Anna Mary Glaab, County Treasurer Ross Jacobs, County Sheriff Scott Mascher, County Assessor Pamela Pearsall, County Deputy Attorney Kevin Schiff, and former County Public Defender Dean Trebesch.

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Factual and Procedural Background

¶2 Brown and Crater sued the Appellees, allegedly in the Appellees' private capacity, contending Appellees were covered by the state blanket bond, A.R.S. § 38-251, but had failed to list that bond on their financial disclosures pursuant to A.R.S. § 38-542(A)(10), and had failed to obtain an individual bond and to file the same with the appropriate agency pursuant to A.R.S. § 38-256. They sought monetary damages of \$2,250,000. Brown and Crater later amended their complaint to include additional defendants and to more fully express their claims. They also increased the amount of monetary damages they sought to \$19,250,000.

¶3 Appellees filed motions to dismiss the complaint, claiming Brown and Crater lacked standing and failed to state a claim upon which relief could be granted. The trial court granted the motions, and Brown and Crater timely appealed. We have jurisdiction over their appeal pursuant to A.R.S. §§ 12-120.21(A)(1) and 12-2101(A)(1).

Discussion

¶4 Brown and Crater argue the trial court erred by finding they do not have standing to bring this action, claiming they explained their reasoning in their Complaint and in their Memorandum on Standing. But parties are not allowed to incorporate pleadings or other documents filed below into their opening brief as argument. *Lake Havasu City v. Ariz. Dep't of Health Servs.*, 202 Ariz. 549, n.4, 48 P.3d 499, 503 n.4 (App. 2002). We could decline to review this issue any further and affirm on that basis alone.

¶5 But because Brown and Crater are self-represented, in our discretion, we will consider their Memorandum on Standing. We review a trial court's ruling on standing de novo. *Aegis of Ariz., L.L.C. v. Town of Marana*, 206 Ariz. 557, ¶ 16, 81 P.3d 1016, 1021 (App. 2003).

¶6 Brown and Crater first argue they have standing because they are members of the public, public funds are "the protected interest of the public," they and the general public have no

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recourse against the officials because the officials do not have a bond, and most of the “Public has no idea how to ask for relief.” However, they fail to cite any authority for this alleged standard. Again, we could affirm on this basis alone. *See* Ariz. R. Civ. App. P. 13(a)(6) (opening briefs must include “[a]n argument which shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on”); *Watahomigie v. Ariz. Bd. of Water Quality Appeals*, 181 Ariz. 20, 26, 887 P.2d 550, 556 (App. 1994) (“[W]e will not consider issues not properly briefed.”).

¶7 Our supreme court has stated the requirements for standing differently than Brown and Crater. “To gain standing to bring an action, a plaintiff must allege a distinct and palpable injury.” *Sears v. Hull*, 192 Ariz. 65, ¶ 16, 961 P.2d 1013, 1017 (1998). “An allegation of generalized harm that is shared alike by all or a large class of citizens generally is not sufficient to confer standing.” *Id.* Under this standard, Brown and Crater have not alleged any more than a generalized harm that is shared by a large class of citizens. *See id.* Therefore, they do have not standing based on these allegations.

¶8 Brown and Crater further claim standing under four statutes: A.R.S. §§ 12-511, 12-541(3) and (5), 12-548, and 12-543(3). These statutes relate to statutes of limitations and do not independently create a cause of action or confer standing on Brown and Crater. *See* § 12-511 (applicable statute of limitations for civil action based on criminal conduct); § 12-541(3), (5) (statute of limitations governing breaches of employment contract and “liability created by statute, other than a penalty or forfeiture”); § 12-548 (statute of limitations governing actions arising from a contract); § 12-543(3) (statute of limitations governing actions based on fraud or mistake).

¶9 Brown and Crater also claim generally that Appellees have failed to obtain individual bonds. But Brown and Crater have not shown they were “injured or aggrieved by the wrongful act or default of the officer.” *See* A.R.S. § 38-260. Nor have they shown they were injured in any way by Appellees’ alleged failure to have these bonds or alleged failure to disclose them. They do not explain

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why they should receive a judgment of \$19,250,000. Therefore, we agree with Appellees that Brown and Crater have failed to demonstrate they have standing to pursue this action.

¶10 Our conclusion that Brown and Crater lack standing prevents us from reaching their claim that the action was brought against Appellees in their individual capacities, their contention that the county attorney and attorney general are acting ultra vires, their arguments on the merits, and their request that we remand to remove alleged acts of impropriety by the trial court judges involved.

Disposition

¶11 For the foregoing reasons, we affirm the trial court's judgment.