

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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JOSEPH TRUDEL, AN INDIVIDUAL,  
*Plaintiff/Appellant,*

*v.*

FRANKIE MILLS, A SINGLE WOMAN; AND  
ALL REAL ESTATE COMPANY,  
*Defendants/Appellees.*

No. 2 CA-CV 2014-0144  
Filed April 30, 2015

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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NOT FOR PUBLICATION  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)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).*

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Appeal from the Superior Court in Pima County  
No. CV20115412  
The Honorable Carmine Cornelio, Judge  
The Honorable Richard S. Fields, Judge

**AFFIRMED IN PART; DISMISSED IN PART**

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COUNSEL

Joseph Trudel, Tucson  
*In Propria Persona*

Choate & Seletos, Tucson  
By Steven K. Marlowe  
*Counsel for Defendants/Appellees*

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**MEMORANDUM DECISION**

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

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H O W A R D, Judge:

¶1 Appellant Joseph Trudel appeals from the trial court’s entry of judgment as a matter of law in favor of appellees Frankie Mills and All Real Estate Company on his personal injury claim against them and from the court’s order denying his motion for a new trial. For the following reasons, we affirm the judgment but dismiss his appeal from the order on the motion for new trial.

**Jurisdiction**

¶2 “[T]his court has an independent duty to determine whether it has jurisdiction over an appeal,” even when the parties do not raise this issue. *McMurray v. Dream Catcher USA, Inc.*, 220 Ariz. 71, ¶ 4, 202 P.3d 536, 539 (App. 2009). Rule 9(e)(3), Ariz. R. Civ. App. P., requires a party appealing from an order on a motion for new trial under Rule 59(a), Ariz. R. Civ. P., to “file a notice of appeal, a notice of cross-appeal, or an amended notice of appeal under Rule 8[, Ariz. R. Civ. App. P.,] within the time prescribed by Rule 9.” Such time is “measured from entry of the order.” Ariz. R. Civ. App. P. 9(e)(3). Thus, to appeal from the denial of a motion for new trial, a party must file a notice “no later than 30 days after entry” of the order denying the motion. Ariz. R. Civ. App. P. 9(a).<sup>1</sup>

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<sup>1</sup>At the time Trudel was required to file a notice of appeal, former Rule 9 was in effect. *See* Ariz. Sup. Ct. Order R-14-0017 (Sept. 2, 2014) (amending the Arizona Rules of Civil Appellate Procedure effective January 1, 2015). We apply current Rule 9, however, because the amended rules apply “in all . . . appeals pending on January 1, 2015, except to the extent that in the opinion of the applicable court the application of an amended rule in a particular pending action or proceeding would not be feasible or would work

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¶3 Trudel did not file a new or amended notice of appeal after the trial court denied his motion for new trial, and he thereby failed to appeal from this denial in accordance with Rule 9. Consequently, we do not have jurisdiction over, and must dismiss, his appeal from the court’s order denying his motion for new trial. *See James v. State*, 215 Ariz. 182, ¶ 11, 158 P.3d 905, 908 (App. 2007) (failure to file notice of appeal within time limits deprives court of jurisdiction to do anything but dismiss attempted appeal).

¶4 However, Trudel timely filed a notice of appeal from the judgment entered against him. *See Ariz. R. Civ. App. P. 9(a)*. We therefore have jurisdiction over his appeal from the judgment pursuant to A.R.S. §§ 12-120.21(A)(1) and 12-2101(A)(1).

**Noncompliance with Arizona Rules of Civil Appellate Procedure**

¶5 Trudel, appearing pro se in this appeal, argues the trial court erred in its rulings on motions in limine and evidentiary matters, by rejecting his challenges to certain venirepersons for cause, by allowing “numerous hearsay statements . . . made by the defense attorney” during opening arguments, and by granting the appellees’ motion for judgment as a matter of law. He also argues in his reply brief that the appellees’ answering brief was untimely and asks this court to “reject its presence in this appeal.”

¶6 Rule 13(a)(7)(A), Ariz. R. Civ. App. P., requires an appellant to support his arguments by providing “supporting reasons” and “citations to legal authorities” for each issue presented on appeal. This rule applies to pro se appellants as well as appellants represented by counsel. *See Copper State Bank v. Saggio*, 139 Ariz. 438, 441, 679 P.2d 84, 87 (App. 1983) (“[W]here a party conducts his case in propria persona he is entitled to no more

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an injustice.” *Id.* at 1-2; *see also* Ariz. R. Civ. App. P. 9 editors’ notes. We find no injustice in applying the current rule because former Rule 9(b)(2)(B) also would have required “an amended notice of appeal in compliance with Rule 8 within the time prescribed by [Rule 9] measured from the entry of the order” on the motion for new trial. Ariz. Sup. Ct. Order R-13-0005 (Aug. 28, 2013).

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consideration than if he had been represented by counsel, and he is held to the same familiarity with required procedures . . . as would be attributed to a qualified member of the bar.”). An appellant waives any claim that he does not support with an argument containing citations to relevant authorities. *Polanco v. Indus. Comm’n*, 214 Ariz. 489, n.2, 154 P.3d 391, 393 n.2 (App. 2007).

¶7 Trudel does not support any of his claims by incorporating relevant legal authorities into his arguments. Rather, he mentions Rules 7.2, 50, and 51, Ariz. R. Civ. P., in a section of his brief entitled “Standards of Appellant Review,” presumably to support his arguments concerning the trial court’s rulings on the motions in limine, the judgment as a matter of law, and his challenges to venirepersons. But he does not analyze the language of these rules or otherwise explain with reference to these rules how the court erred. And he cites no case law interpreting or applying these rules. In sum, he does not sufficiently challenge the basis for the court’s rulings to allow this court to determine whether any error occurred. Because Trudel has not sufficiently argued his claims and thereby has waived them on appeal, we will not address the merits of his claims. *See Polanco*, 214 Ariz. 489, n.2, 154 P.3d at 393 n.2.

¶8 Moreover, even if we were to conclude that Trudel had not waived his claims on appeal, he has failed to provide us with the transcripts necessary to review the trial court’s rulings. “A party is responsible for making certain the record on appeal contains all transcripts or other documents necessary for us to consider the issues raised on appeal.” *Baker v. Baker*, 183 Ariz. 70, 73, 900 P.2d 764, 767 (App. 1995); *see also* Ariz. R. Civ. App. P. 11(c)(1)(A). “When a party fails to include necessary items, we assume they would support the court’s findings and conclusions.” *Baker*, 183 Ariz. at 73, 900 P.2d at 767.

¶9 Trudel did not submit transcripts of the hearing on the motions in limine, jury voir dire, the trial, or the arguments on the appellees’ motion for judgment as a matter of law – all of which are necessary to review the rulings he challenges on appeal. Thus, even had he not waived his claims, we would assume the missing transcripts support the court’s rulings and affirm. *See id.*

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¶10 Trudel also has waived his argument that we should “reject [the] presence” of the appellees’ answering brief because he did not support that argument by citing relevant supporting authority. *See Polanco*, 214 Ariz. 489, n.2, 154 P.3d at 393 n.2. Even were it not waived, the argument is without merit because we granted the appellees’ Motion to Extend Time to File Appellees’ Answering Brief, and the appellees filed their answering brief in compliance with this court’s order dated February 27, 2015.

**Disposition**

¶11 For the foregoing reasons, we affirm the judgment against Trudel and dismiss his appeal from the trial court’s order denying his motion for new trial.