

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

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MARY ANN FONTES, A SINGLE WOMAN,  
*Plaintiff/Appellant,*

*v.*

AAA CAB SERVICE, INC.,  
DBA AAA CAB, AN ARIZONA CORPORATION,  
*Defendant/Appellee.*

No. 2 CA-CV 2021-0026  
Filed January 19, 2022

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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NOT FOR PUBLICATION  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. C20194881  
The Honorable Brenden J. Griffin, Judge

**AFFIRMED**

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COUNSEL

Mary Ann Fontes, Tucson  
*In Propria Persona*

Alexander Arpad, Phoenix  
*Counsel for Defendant/Appellee*

**MEMORANDUM DECISION**

Presiding Judge Eckerstrom authored the decision of the Court, in which Chief Judge Vásquez and Judge Espinosa concurred.

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ECKERSTROM, Presiding Judge:

¶1 Mary Ann Fontes was injured in 2013 when a truck rear-ended the taxi in which she was riding as a passenger. She now appeals from the trial court’s ruling dismissing her 2019 complaint against AAA Cab Service, Inc. For the reasons that follow, we affirm.

**Discussion**

¶2 Fontes is not represented by counsel. Nevertheless, she is “given the same consideration on appeal as one who has been represented by counsel,” and she “is held to the same familiarity with court procedures and the same notice of . . . rules . . . as is expected of a lawyer.” *Higgins v. Higgins*, 194 Ariz. 266, ¶ 12 (App. 1999).

¶3 Fontes’s opening brief does not comply with our procedural rules. *See* Ariz. R. Civ. App. P. 13(a) (requirements for opening briefs). Most importantly, it fails to provide an argument containing her “contentions concerning each issue presented for review, with supporting reasons for each contention, and with citations of legal authorities and appropriate references to the portions of the record on which [she] relies.” Ariz. R. Civ. App. P. 13(a)(7)(A). Indeed, the portions of the opening brief that appear to contain Fontes’s arguments on appeal provide no legal citations and no references to the record. We therefore deem any claims she might have raised waived. *See Ritchie v. Krasner*, 221 Ariz. 288, ¶ 62 (App. 2009) (appellant waives claims by failing to provide in opening brief significant arguments, supporting authority, and citations to record); *see also Boswell v. Fintelmann*, 242 Ariz. 52, n.3 (App. 2017) (appellant who “fails to develop and support his conclusory arguments . . . waives them”).

¶4 Moreover, even were her claims not waived, Fontes’s appeal would fail. She contends the trial court “ignored” both AAA Cab’s failure to answer her complaint and her request for a default judgment. But AAA Cab appeared and moved to dismiss the case three days after Fontes filed

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her application for default, consistent with Rule 55, Ariz. R. Civ. P.<sup>1</sup> The court thus correctly denied the default motion as moot. Fontes also contends the court erred in dismissing her case without a hearing. But the rules of civil procedure establish that our trial courts “may decide motions without oral argument, even if oral argument is requested.” Ariz. R. Civ. P. 7.1(d). And Fontes has not meaningfully challenged the substantive reasons articulated by the trial court for granting AAA Cab’s motion to dismiss.

¶5 AAA Cab has requested an award of attorney fees, including under A.R.S. § 12-349. We agree that this appeal has unreasonably expanded the proceeding. *See* § 12-349(A)(3). Fontes has focused primarily on whether she was entitled to a default judgment, when the trial court already provided a clear explanation for why her default motion had been rendered moot. And Fontes’s failure to file an opening brief that conforms to our procedural rules required AAA Cab to expend considerable effort to decipher her arguments and determine the relevance, if any, of the citations listed without explanation in the opening brief. We therefore award AAA Cab its reasonable fees and expenses on appeal. *See* § 12-349(A). As the prevailing party on appeal, AAA Cab is also entitled to recover its costs, A.R.S. § 12-341, upon compliance with Rule 21(b), Ariz. R. Civ. App. P.

**Disposition**

¶6 We affirm the ruling of the trial court and award AAA Cab its reasonable attorney fees, expenses, and costs on appeal.

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<sup>1</sup>“A default will not become effective if the party claimed to be in default pleads or otherwise defends as provided in these rules within 10 days after the application for entry of default is filed.” Ariz. R. Civ. P. 55(a)(5).