

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

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MARCELLA RYNN, AN INDIVIDUAL,  
*Plaintiff/Appellant,*

*v.*

UHS OF PHOENIX, LLC, DBA QUAIL RUN BEHAVIORAL HEALTH;  
LA FRONTERA EMPACT-SPC, AN ORGANIZATION; ARIZONA DEPARTMENT  
OF CHILD SAFETY; STATE OF ARIZONA; DOUG DUCEY IN HIS OFFICIAL  
CAPACITY AS GOVERNOR OF STATE OF ARIZONA AND PERSONALLY;  
CARA CHRIST IN HER OFFICIAL CAPACITY AS DIRECTOR OF HEALTH SERVICES  
AND PERSONALLY; GREGORY A. MCKAY IN HIS OFFICIAL CAPACITY AS  
DIRECTOR OF THE ARIZONA DEPARTMENT OF CHILD SAFETY AND PERSONALLY;  
DEPARTMENT OF HEALTH SERVICES; DAY STARZ GROUP HOME;  
TAMLA ALEXANDER; BANNER HEALTH; MARICOPA INTEGRATED HEALTH  
SYSTEMS; AND DESERT VISTA,  
*Defendants/Appellees.*

No. 2 CA-CV 2022-0175  
Filed June 26, 2023

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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NOT FOR PUBLICATION  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 Maricopa County  
No. CV2021095431  
The Honorable Peter A. Thompson, Judge

**AFFIRMED**

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COUNSEL

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*In Propria Persona*

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dba Maricopa Integrated Health System and Desert Vista*

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By Robin E. Burgess and Ashley V. Cheff  
*Counsel for Defendant/Appellee Banner Health*

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**MEMORANDUM DECISION**

Presiding Judge Eppich authored the decision of the Court, in which  
Chief Judge Vásquez and Judge Gard concurred.

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E P P I C H, Presiding Judge:

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¶1 Marcella Rynn appeals from the trial court’s dismissal of her complaint with prejudice. She primarily asserts the court erred by finding her claims were barred due to abatement and claim preclusion. We affirm.

**Factual and Procedural Background**

¶2 In 2017, a juvenile court adjudicated Rynn, a minor at the time, dependent as to her parents based on a petition filed by the Department of Child Safety (DCS). The facts underlying the dependency case are summarized in *Richard R. v. Department of Child Safety*, No. 2 CA-JV 2017-0165 (Ariz. App. Feb. 6, 2018) (mem. decision) and *Richard R. v. Department of Child Safety*, No. 2 CA-JV 2021-0141 (Ariz. App. Apr. 12, 2022) (mem. decision). The present case is Rynn’s third civil lawsuit arising out of events surrounding the 2017 dependency proceedings.

¶3 In 2018, Rynn’s father filed the first lawsuit on behalf of himself and Rynn in superior court. The case was subsequently removed to federal district court where it was dismissed with prejudice. In 2020, Rynn and her family filed another lawsuit (the “2020 litigation”) based on the same series of events surrounding the dependency.

¶4 In 2021, while the 2020 litigation was still pending, Rynn filed the action giving rise to this appeal.<sup>1</sup> Among others, Rynn named as defendants UHS of Phoenix LLC (dba Quail Run Behavioral Health), La Frontera Empact-SPC, Banner Health, Maricopa Integrated Health Systems, Desert Vista, Day Starz Group Home, the state, DCS, and the Department of Health Services (DHS) (collectively, “appellees”). Her claims included defamation, false light, 42 U.S.C. § 1983 violations, racketeering, negligence, sexual abuse, fraud, abuse of process, and breach of contract. In support of these claims, she generally alleged the defendants had unlawfully seized her, subjected her to abuse, and provided involuntary medical treatment. She also alleged the defendants had “collaborated under the color of law with extreme outrageous false accusations and fraudulent documents” over a three-year period between 2017 and 2020.

¶5 The defendants moved to dismiss, and the trial court granted the motion in an unsigned minute entry, finding Rynn’s claims were abated

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<sup>1</sup> We issued a memorandum decision in the 2020 litigation in September 2022 affirming the trial court’s dismissal of Rynn’s claims. *David-Rynn v. UHS of Phx., LLC*, No. 1 CA-CV 21-0605 (Ariz. App. Sept. 15, 2022) (mem. decision).

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by the pending 2020 litigation and barred under the doctrine of claim preclusion.<sup>2</sup> Rynn subsequently filed motions for a change of venue, for a new trial, for leave to file amended complaints, for judicial notice of exhibits, and “for retrial, and to set aside judgment.” The court denied each motion and entered final judgment pursuant to Rule 54(c), Ariz. R. Civ. P. This appeal followed. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1) and 12-2101(A)(1).

**Discussion**

¶6 Rynn asserts the trial court “err[red] by dismissing for res[er] judicata, [and] abatement” and by denying her post-dismissal motions. The appellees contend Rynn has effectively abandoned her appeal for failure to advance arguments relevant to the issues and supported by citations to the record and legal authority. We agree with the appellees.

¶7 An opening brief must contain “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 the appellant relies.” Ariz. R. Civ. App. P. 13(a)(7)(A). “An appellant who fails to make a ‘bona fide and reasonably intelligent effort to comply with the rules’ will waive issues and arguments ‘not supported by adequate explanation, citations to the record, or authority.’” *Ramos v. Nichols*, 252 Ariz. 519, ¶ 8 (App. 2022) (quoting *In re Aubuchon*, 233 Ariz. 62, ¶ 6 (2013)); *Boswell v. Fintelmann*, 242 Ariz. 52, n.3 (App. 2017) (appellant waives undeveloped and unsupported conclusory arguments).

¶8 It appears Rynn’s primary argument is that dismissal was improper because the judgments in her previous cases were fraudulent and the judgment in the instant case failed to resolve the underlying merits of her claims. Rynn also asserts that abatement and claim preclusion “do[] not apply to fraud,” or to “claims of so-called continuing wrongs and future harm,” and that the trial court should not have denied her post-dismissal

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<sup>2</sup>The court also found that Rynn had not served the defendants within the required time limit or requested an extension. It accordingly dismissed without prejudice all claims against defendants “not having been served and not having responded to the Complaint.” Rynn does not challenge this ruling on appeal.

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motions.<sup>3</sup> However, she develops no meaningful argument and cites insufficient relevant legal authority for these propositions. *See* Ariz. R. Civ. App. P. 13(a)(7)(A).

¶9 Although Rynn represents herself, we hold her to the same standard as an attorney. *See Flynn v. Campbell*, 243 Ariz. 76, ¶ 24 (2017). Because we cannot discern Rynn’s arguments, we consider them waived. *See Ramos*, 252 Ariz. 519, ¶ 8; *Boswell*, 242 Ariz. 52, n.3.

**Request for Attorney Fees and Costs**

¶10 The appellees argue this appeal is frivolous, and ask that we award them attorney fees as a sanction under Rule 25, Ariz. R. Civ. App. P.<sup>4</sup> They point to the Rule 13 defects in Rynn’s opening brief and note “the detrimental effect of Rynn’s continuing improper lawsuits.” Although Rynn has failed to comply with Rule 13(a)(7) and the history of repetitive litigation is concerning, in our discretion we decline to impose sanctions under Rule 25. *See Ariz. Tax Rsch. Ass’n v. Dep’t of Revenue*, 163 Ariz. 255, 257 (1989) (sanctions under Rule 25 discretionary). However, as the successful party, the appellees are entitled to their costs on appeal upon compliance with Rule 21(b), Ariz. R. Civ. App. P. *See* A.R.S. § 12-341.

**Disposition**

¶11 For the foregoing reason, we affirm.

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<sup>3</sup>Rynn also briefly argues that the statute of limitations does not bar her claims. However, in dismissing her claims, the trial court noted “[its] actions are not based on statutes of limitations.” In addition, Rynn included the court’s order finding that she engaged in “vexatious conduct” in her notice of appeal. But Rynn makes no argument regarding it, and thus any challenge is waived. *See Ramos*, 252 Ariz. 519, ¶ 8; *Boswell*, 242 Ariz. 52, n.3.

<sup>4</sup>The state appellees do not join in the request for sanctions or attorney fees.