

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

DONNA JOHANSON, et al., *Plaintiffs/Appellees*,

v.

NICHOLAS CASAVELLI, et al., *Defendants/Appellants*.

No. 1 CA-CV 24-0320

FILED 06-05-2025

Appeal from the Superior Court in Maricopa County
No. CV2017-055490

The Honorable Christine E. Mulleneaux, Judge *Pro Tempore* (Retired)

AFFIRMED

COUNSEL

Provident Law, PLLC, Scottsdale
By Bryan L. Eastin & Christopher J. Charles
Counsel for Plaintiffs/Appellees

Nicholas Casavelli & Nicolina Castelli, Sun City
Defendants/Appellants

MEMORANDUM DECISION

Judge Paul J. McMurdie delivered the Court's decision, in which Presiding
Judge Anni Hill Foster and Judge Michael J. Brown joined.

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M c M U R D I E, Judge:

¶1 Defendants Nicholas Casavelli and Nicolina Castelli (“Casavellis”) appeal after a jury and bench verdict for Donna Johanson and the estate of Gary Johanson (“Johansons”).¹ We affirm.

FACTS AND PROCEDURAL BACKGROUND

¶2 This case spans seven years of litigation, a previous appeal to this court, a parallel claim in the federal courts, and an unsuccessful petition for *certiorari* to the Supreme Court. See *Johanson v. Casavelli*, 1 CA-CV 21-0207, 2022 WL 453812 (Ariz. App. Feb. 15, 2022) (mem. decision); *Casavelli v. Johanson*, CV-20-00497-PHX-JAT, 2020 WL 7643170 (D. Ariz. Dec. 23, 2020), *aff’d*, 21-15051 & 21-16268, 2022 WL 4115495 (9th Cir. Sept. 9, 2022), *cert denied*, 143 S. Ct. 594 (2023). The relevant facts are as follows.

¶3 In 2017, the Johansons sued the Casavellis for claims related to property ownership and financial matters, as well as the Casavellis’ work as agents for the Johansons, which included managing, maintaining, and selling their single-family rental properties. After three and a half years of extensive litigation, the court found the Casavellis to be vexatious litigants. The Casavellis appealed the order, which we vacated in part and remanded, limiting the order to only the pending litigation. *Johanson*, 1 CA-CV 21-0207, at *4, ¶¶ 17, 19. The Casavellis unsuccessfully petitioned the Supreme Court for *certiorari* on their vexatious-litigant designation. *Casavelli*, 143 S. Ct. 594.

¶4 The superior court revised its vexatious-litigant designation on remand, precluding the Casavellis from filing new documents without the court’s authorization in this case. By all indications in the record, the Casavellis flouted this designation and continued to file numerous documents. That said, the litigation continued toward trial, with a last-minute trial continuance after the Johansons’ counsel contracted COVID a week before the trial date. Just after the court rescheduled the trial, it ruled that the jury would only hear the Johansons’ fraud and consumer fraud claims, and the remaining claims would be presented to the bench.

¶5 Two weeks before the revised trial date, the assigned judge notified the parties of a scheduling conflict with the trial. The judge notified

¹ Gary Johanson passed away during the litigation and his estate was substituted in his place.

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the parties that the court intended to assign Commissioner Christine Mulleneaux to preside over the case in his stead and asked the parties to provide notice if they intended to move for a change of judge by 9:00 a.m. the following morning. The Casavellis filed a response but did not express an intent to move for a change of judge. As a result, the case was reassigned to the Commissioner, who presided over a six-day jury trial on the scheduled date.

¶6 On the trial's third day, apparently because of Nicholas Casavelli's health issues, the Casavellis left the courtroom. They remained absent from the rest of the trial despite the court authorizing them to appear remotely. The jury returned a verdict in favor of the Johansons on the fraud counts and the jointly disputed quiet title claim. Afterward, the judge ruled on the remaining claims, finding for the Johansons on all claims except those for unjust enrichment, equitable mortgage, accounting, and declaratory judgment. The court awarded the Johansons over \$1.2 million in damages. The court also awarded about \$425,000 in attorney's fees plus double damages of \$5,000 under Arizona Revised Statutes ("A.R.S.") § 12-349(A)(3) for unreasonably expanding or delaying the proceedings.

¶7 On March 28, 2024, the court entered a judgment under Arizona Rules of Civil Procedure ("Civil Rule") 54(b), resolving all matters tried before the bench and the jury. The court issued a judgment under Civil Rule 54(c) six days later. The Casavellis appealed.

DISCUSSION

A. This Court Has Jurisdiction to Consider the Casavellis' Arguments.

¶8 The Johansons argue that we lack jurisdiction over most of the claims raised by the Casavellis because they failed to include all relevant judgments in their notice of appeal. The notice of appeal only lists the Civil Rule 54(c) judgment entered on April 3, 2024 ("April 3rd Judgment"), which exclusively ruled on the Casavellis' Request for Emergency Stay (Post-Trial Motion). The remaining issues in the case were finalized in the Civil Rule 54(b) judgment entered six days earlier ("March 28th Judgment"), six days before the Casavellis filed their notice of appeal.

¶9 Although we may not "read into [a notice of appeal] something that is not there," *Baker v. Emmerson*, 153 Ariz. 4, 8 (App. 1986), "[w]e liberally construe notices of appeal if the result is neither misleading nor prejudicial to the appellees involved," *Gutierrez v. Gutierrez*, 193 Ariz. 343, 350, ¶ 30 (App. 1998) (quotation omitted). The April 3rd Judgment

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appealed by the Casavellis mentions the court's March 28th Judgment within the order. The Casavellis argue before this court that they intended to appeal all matters included in the March 28th Judgment, understanding them to only be appealable after the entry of the April 3rd Judgment. "[W]here the record discloses an appellant's intent to appeal from a judgment . . . the notice of appeal should be construed as sufficient so long as the defect has neither misled nor prejudiced an opposing party." *Desert Palm Surgical Grp., P.L.C. v. Petta*, 236 Ariz. 568, 576, ¶ 16 (App. 2015) (quotation omitted).

¶10 The Johansons fail to show prejudice or that they were misled. As early as six weeks after the notice of appeal, the Casavellis, in their case management statement, noticed their intent to pursue claims other than those finalized in the April 3rd Judgment. The Johansons had nearly six months between the first notice of the Casavellis' intended scope of appeal and the filing of their answering brief, and they responded to the claims within their brief. Additionally, the Casavellis' appeal of the matters in the March 28th Judgment was timely. *See* ARCAP 8(d) (The failure of an appellant "to perform an act other than the timely filing of a notice of appeal . . . does not affect the appellate court's jurisdiction."). Because we liberally construe a notice of appeal and there is no prejudice to the Johansons evident in the record, we determine that we have jurisdiction to hear all matters raised by the Casavellis under A.R.S. §§ 12-120.21(A)(1) and -2101(A)(1).

B. Still, the Casavellis Waived Numerous Claims.

¶11 Simply because we have jurisdiction to consider the arguments raised by the Casavellis does not mean we will consider their arguments if they fail to show their merit. An appellant waives claims if he or she fails to provide significant arguments on the issues, supporting legal authorities, or citations to the record. *See* ARCAP 13(a)(7)(A); *Ritchie v. Krasner*, 221 Ariz. 288, 305, ¶ 62 (App. 2009). The Casavellis present a legion of arguments that lack meaningful support from the record and fail to provide citations to legal authorities. We hold the Casavellis have waived these claims. The same is true for claims that provided legal authority but lacked sufficient citations to the record.

¶12 In addition, the Casavellis raise claims ruled on by the superior court without alleging any error by that court. We affirm the court's rulings on these issues without further consideration. *See Guard v. County of Maricopa*, 14 Ariz. App. 187, 188-89 (1971) (When the appellants

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fail to meet their burden of proving the superior court erred, we must affirm.).

¶13 We now review the remaining claims to determine their merits. If our review determines that the Casavellis have presented no claim of error, we will also hold those claims waived.

C. The Johansons Had Standing to Pursue Their Claims.

¶14 We review *de novo* the Casavellis' argument that the Johansons lacked standing to bring their claims. See *City of Tucson v. Pima County*, 199 Ariz. 509, 514, ¶ 10 (App. 2001). Arizona does not adhere to the case or controversy requirement observed in federal courts. *Republican Nat'l Comm. v. Fontes*, ___ Ariz. ___, ___, ¶ 10, 566 P.3d 984, 989 (App. 2025). Instead, standing raises questions of "prudential or judicial restraint." *Id.* (quotation omitted). Still, Arizona courts generally require a party to possess standing to proceed with an action. *Sears v. Hull*, 192 Ariz. 65, 71, ¶ 24 (1998).

¶15 The Casavellis claim A.R.S. § 29-3502(A)(3) prohibits the Johansons from bringing suit because an LLC assigned the Johansons their rights to these claims. The argument lacks merit. A transferable interest, as used in this statute, is "the right . . . to receive *distributions* from a limited liability company." A.R.S. § 29-3102(29) (emphasis added). Section 29-3502 is inapplicable here because, stated more accurately, the question the Casavellis present is whether an LLC may assign its *claims*, not its distributions, to members of the LLC. The general rule in Arizona is that claims, except those arising from personal injury, can be assigned to another party unless the legislature specifies otherwise. *Webb v. Gittlen*, 217 Ariz. 363, 366, ¶ 13 (2008). The Casavellis point to no legal authority other than A.R.S. § 12-2234 (which we hold waived for failure to allege error in the superior court's ruling) and A.R.S. § 29-3502 (which does not apply) to show error. Nor do the Casavellis explain which claims were assigned to the Johansons rather than brought in their personal capacity. Thus, we conclude any issues with the Johansons' standing are waived.

D. The Superior Court Did Not Err by Assigning a Commissioner to Preside Over the Trial.

¶16 We review *de novo* the Casavellis' argument that the superior court violated Arizona Rule of the Supreme Court 96(e) by assigning Commissioner Mulleneaux to preside over the trial. See *In re Est. of de Escandon*, 215 Ariz. 247, 249, ¶ 7 (App. 2007) (We review judicial authority to hear a case *de novo*.).

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¶17 While the Casavellis are correct that a commissioner lacks the authority to conduct a trial without the written stipulation of the parties, *see* Ariz. R. Sup. Ct. 96(a), (e), Commissioner Mulleneaux was a judge *pro tempore* when she conducted the trial, *see* Arizona Supreme Court Pro Tempore Order No. 2023-20 (June 19, 2023); Ariz. R. Evid. 201(b)(2) (“The court may judicially notice a fact that . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.”). A judge *pro tempore* has “the same authority as a full-time regularly seated superior court judge,” so Commissioner Mulleneaux could preside over trial. *Vera v. Rogers*, 246 Ariz. 30, 35, ¶ 19, n.5 (App. 2018) (citing Ariz. Const. art. 6, § 31).

¶18 Next, the Casavellis argue that the superior court violated the time limits established in Civil Rule 42.1 by requesting the parties file any motion for a change of judge by the next day. The plain language of Civil Rule 42.1(c) does not establish time allotments the superior court must afford litigants before proceeding in the litigation. *State ex rel. Thomas v. Newell*, 221 Ariz. 112, 114, ¶ 7 (App. 2009) (The plain language of a rule is “the best and most reliable index of [the rule’s] meaning.” (alteration in original) (quotation omitted)); Ariz. R. Civ. P. 42.1(c) (“A party is precluded from obtaining a change of judge as a matter of right unless it files a timely notice.”). Indeed, the rule explicitly includes timeframes that change under various scenarios, such as after the court of appeals issues a mandate or when the parties receive a shortened notice of an assignment. *See* Ariz. R. Civ. P. 42.1(c)(3), (4). The rule’s construct suggests the times established in it are intended to be a timeframe for filing, not a pause on litigation.

¶19 But, more importantly, the Casavellis cannot show any error arising from this matter. A peremptory change of judge is a “matter of grace under the [Civil] Rules,” *Hickox v. Superior Court*, 19 Ariz. App. 195, 198 (1973), which carries no prejudice that can be shown on appeal, *Taliaferro v. Taliaferro*, 186 Ariz. 221, 223-24 (1996). To consider the Casavellis’ argument at this point would convert this matter of grace into a “trump card,” which could destroy the validity of a proceeding. *See id.* If the Casavellis believed they had an issue with a peremptory change of judge, the only appropriate vehicle for review was a special action petition. *See id.*

¶20 Finally, the superior court correctly sent the Casavellis’ change of judge requests to the presiding civil judge, complying with A.R.S. § 12-409(A)’s requirement that a different judge consider a motion for a change of judge for cause.

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¶21 The superior court did not err in appointing Commissioner Mulleneaux or in its handling of the change-of-judge motions.

E. The Court Correctly Determined It Would Resolve the Equitable Claims.

¶22 We review *de novo* whether a party is entitled to a jury trial on a given claim. *Williams v. King*, 248 Ariz. 311, 315, ¶ 12 (App. 2020). Here, we hold that the superior court did not err by ruling on some claims without a jury trial.

¶23 There is no right to a jury trial on actions considered equitable when Arizona adopted its constitution. *In re Est. of Newman*, 219 Ariz. 260, 273-74, ¶¶ 53, 55-56 (App. 2008). Nor is there a right to a jury trial on statutory claims that did not exist at common law before statehood, except when the statute expressly provides otherwise. *Id.* at 272, ¶ 45.

¶24 Of the claims not submitted to the jury, the court ruled on the claims for financial exploitation of a vulnerable adult under A.R.S. Title 46, Chapter 4; undue influence; constructive fraud and constructive trust; breach of fiduciary duty; equitable mortgage; an accounting; and declaratory judgment.

¶25 Claims under Arizona's Vulnerable Adult Statute or for breach of fiduciary duty are not entitled to a jury trial. *Newman*, 219 Ariz. at 273-74, ¶¶ 48, 57. And many of the bench claims arise from equity. See *Schornick v. Schornick*, 25 Ariz. 563, 564-65 (1923) (undue influence); *Raestle v. Whitson*, 119 Ariz. 524, 526 (1978) (constructive trust); *Span v. Maricopa County Treasurer*, 246 Ariz. 222, 227, ¶ 15 (App. 2019) (unjust enrichment); *Mollohan v. Christy*, 80 Ariz. 141, 142 (1956) (accounting). The only two claims that could require a jury trial are constructive fraud and declaratory judgment. But constructive fraud arises from a breach of a legal or equitable duty, and the breach alleged here – breach of fiduciary duty – is equitable. *Taeger v. Cath. Fam. & Cmty. Servs.*, 196 Ariz. 285, 289, ¶ 9 (App. 1999) (defining constructive fraud); *Newman*, 219 Ariz. at 274, ¶ 57 (no right to a jury trial for breach of fiduciary duty cases). And a declaratory judgment request does not create a cause of action but is a relief from an established cause of action. See *Ansley v. Banner Health Network*, 248 Ariz. 143, 151, ¶ 31 (2020) (The Declaratory Judgment Act does not create a private right of action.); see also *Snyder v. HSBC Bank, USA, N.A.*, 913 F. Supp. 2d 755, 770 (D. Ariz. 2012) (“A declaratory judgment action is a remedy for an underlying cause of action; it is not a separate cause of action . . .”). Thus, there is no error, and we affirm the result of the bench trial.

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F. The Superior Court Complied with Our Instructions for the Vexatious-Litigant Designation.

¶26 The Casavellis contend that the superior court violated our mandate on remand from their designation as vexatious litigants by prohibiting them from filing any documents during litigation. *See Johanson*, 1 CA-CV 21-0207, at *4, ¶¶ 17, 19. We will not disturb a court's ruling finding a vexatious litigant absent an abuse of discretion. *Contreras v. Bourke*, 258 Ariz. 223, 291, ¶ 21 (App. 2024) (review granted in part Jan. 7, 2025).

¶27 The Casavellis' argument lacks merit. They misquote the language from the superior court, which ordered that the Casavellis "may not file any new pleading, motion or other document *in this case* without prior leave of the Court." (Emphasis added.) The court's order complies with our instructions. *See Johanson*, 1 CA-CV 21-0207, at *4, ¶ 17 ("[W]e affirm the pre-filing restrictions in the vexatious-litigant order to the extent they apply to the current case and plaintiffs but vacate the portion of the order as it applies to any broader pre-filing restrictions."). And the record shows that the Casavellis continued to file motions after the court revised its vexatious-litigant order, belying their claim that they were precluded from filing motions during the litigation.

¶28 The Casavellis also claim, for a second time on an appeal, that the superior court held the original hearing on the vexatious-litigant motion a day earlier than scheduled. While we ruled on this issue in their previous appeal, *Johanson*, 1 CA-CV 21-0207, at *2, ¶¶ 8-10, they present other evidence that we did not consider during that appeal, *see id.* at ¶ 9, n.2.² The new evidence fails to change our conclusion. The superior court filed a *nunc pro tunc* order amending the minute entry date from the date alleged by the Casavellis to the date of the scheduled hearing. The Casavellis point to the hearing exhibits being marked on the day they allege, but the record shows the evidence was admitted on the scheduled day of the hearing.

² While the law-of-the-case doctrine could apply in this case, we may still reconsider questions resolved at an earlier stage, "especially where a substantial change has occurred in the evidence." *Sholes v. Fernando*, 228 Ariz. 455, 458-59, ¶ 8 (App. 2011). Because the Casavellis present new evidence that was not considered, and because the resolution is the same, we analyze this argument on its merits.

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¶29 Additionally, in the minute entry from the day of the hearing, the superior court noted the plaintiffs' exhibits were marked before the start of the hearing. As in their previous appeal, the Casavellis fail to rebut the presumption of regularity. *See State v. Hyde*, 186 Ariz. 252, 269 (1996) (A party must present "sufficient evidence" to overcome a presumption of regularity.).³

¶30 The record supports our previous holding that the Casavellis had proper notice of the hearing. *See Johanson*, 1 CA-CV 21-0207, at *2, ¶¶ 8-9. We affirm the superior court's changes to the vexatious-litigant order and reaffirm that the Casavellis had sufficient notice and opportunity to oppose the order.

G. The Casavellis Waived Their Fraud Claims.

¶31 The Casavellis raise multiple allegations that the Johansons' counsel committed fraud upon the court. As we have explained:

Fraud on the court is a variety of extrinsic fraud. The doctrine may allow relief when, by fraud, a party has prevented a real contest before the court of the subject matter of the suit, or, put differently, has committed some intentional act or conduct that has prevented the unsuccessful party from having a fair submission of the controversy. The court has the power to set aside a judgment when a party obtains a judgment by concealing material facts and suppressing the truth with the intent to mislead the court.

Alvarado v. Thomson, 240 Ariz. 12, 16, ¶ 17 (App. 2016) (quotation omitted) (cleaned up).

¶32 The Casavellis allege fraud both during the trial and in post-trial motions, but they failed to provide transcripts of the trial or specify where the fraud occurred in the post-trial motions. *See State ex rel. Brnovich v. Miller*, 245 Ariz. 323, 324, ¶ 5, n.1 (App. 2018) (An appellant must provide transcripts for us to consider the issues raised.). Thus, these claims are waived. *See id.* They allege fraud based on the use of a different trust

³ The Casavellis contend, for the first time in their reply brief, that the superior court failed to make substantive findings of the "frivolous or harassing nature of appellants' actions," as required by Arizona caselaw. Issues raised for the first time in a reply brief are waived. *See Ramos v. Nichols*, 252 Ariz. 519, 523, ¶ 11 (App. 2022).

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name in a legal document, but they fail to explain the legal significance of their claim or even to validate the existence of the trust they allege the Johansons used. This claim is also waived.

¶33 Finally, the Casavellis allege that discrepancies with the timestamp on the jury verdict reveal a scheme by the court to replace the jury verdict with one in favor of the Johansons. The Casavellis fail to rebut the presumption of regularity with any evidence supporting the alleged scheme. *See Hyde*, 186 Ariz. at 269 (A party must present “sufficient evidence” to overcome a presumption of regularity.).

H. The Casavellis Were Afforded Due Process.

¶34 The Casavellis argue they were denied due process through each claim they raise on appeal. “The touchstone of due process under both the Arizona and federal constitutions is fundamental fairness,” *State v. Melendez*, 172 Ariz. 68, 71 (1992), manifested by “the opportunity to be heard at a meaningful time and in a meaningful manner,” *Samiuddin v. Nothwehr*, 243 Ariz. 204, 211, ¶ 20 (2017) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)). It requires “that parties have an adequate opportunity to present factual and legal claims fully.” *In re Guardianship of A.K.*, 258 Ariz. 336, 343, ¶ 18 (App. 2024). The Casavellis had a trial after six years of litigation, voluminous motions, and several appeals. They had a six-day trial on the issues, and when a medical emergency arose, they were allowed to appear remotely. We see no error in the superior court’s actions throughout the litigation and no due process violations.

I. The Casavellis’ Remaining Claims Fail.

¶35 The Casavellis challenge the sufficiency of the evidence presented at trial. When reviewing a jury verdict, we view the evidence in the light most favorable to upholding the verdict and will affirm if “substantial evidence was presented to permit reasonable persons to reach the decision reached by the jury.” *Mealey v. Arndt*, 206 Ariz. 218, 221, ¶ 12 (App. 2003). The Casavellis, however, failed to provide trial transcripts, rendering their claim unreviewable and waived. *See Miller*, 245 Ariz. at 324, ¶ 5, n.1 (An appellant must provide transcripts.).

¶36 The Casavellis also object to the Johansons’ use of demonstrative exhibits at the trial, but they failed to object. Their failure to object waived any argument on appeal. *See Sheehan v. Pima County*, 135 Ariz. 235, 240 (App. 1982) (Objections to testimony are waived by the failure to object at trial.); *Woyton v. Ward*, 247 Ariz. 529, 534, ¶ 16 (App. 2019) (Issues not raised before the trial court are waived.).

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¶37 There is no support for the Casavellis' claim that Civil Rule 47 requires the court to provide each party with the written jury questionnaire. Instead, the rule requires the court to provide "the prospective jurors' responses to the case-specific written questionnaires" to the parties. Ariz. R. Civ. P. 47(b)(3) (emphasis added). The court did not err by distributing the answers to the questionnaire.

¶38 The Casavellis misstate the preclusive effect of a denied motion for summary judgment. "[I]f there is the slightest doubt as to whether a factual issue remains in dispute, the granting of summary judgment is erroneous and the doubt must be resolved in favor of a trial on the merits." *Brown v. Sears, Roebuck & Co.*, 136 Ariz. 556, 562 (App. 1983). A denied motion for summary judgment is not a resolution on the merits because a trial must resolve any factual doubt. The court did not err by allowing the Johansons to continue litigating claims that were denied on a motion for summary judgment.

¶39 The Casavellis do not show when the court dismissed the award of fees from the order to show cause, and they misread our previous order, which held the question of the fees judgment was not appealable rather than improperly decided. They have waived any argument on the fees.

¶40 The Casavellis contend the court erred by granting an emergency trial continuance because the Johansons' counsel contracted COVID days before the trial. They argue that the court ruled without providing them with notice and without the court being fully briefed on the issue. Yet the Casavellis objected on the same day as the Johansons' motion to continue, setting out their argument for proceeding to trial. There is no merit to their claim.

¶41 The Casavellis fail to allege why the court's omission of the jury from the trial video violates Civil Rule 47, thereby waiving this argument. Furthermore, on the record before us, the Casavellis participated in jury selection and received identifying information sufficient to enable their participation. We cannot say the court breached Civil Rule 47(b)(1). Nor do the Casavellis point to any other authority granting them the right to identifying information on the empaneled jury. We discern no error in the jury selection process.

¶42 The Casavellis provide no compelling evidence of a member of the court staff reading deposition testimony at trial. While the record does show a deposition being read, it is not by the individual the Casavellis

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claim. Further, Civil Rule 32(c) explicitly allows this presentation. They have waived their argument on this issue.

¶43 "[T]he public has a constitutional and common law right of access to observe court proceedings." *Ridenour v. Schwartz*, 179 Ariz. 1, 3 (1994) (citing Ariz. Const. art. 2, § 11 & art. 6, § 17). Against this backdrop, we reject the Casavellis' argument that the court livestreaming their trial violated privacy laws and their rights.

¶44 The Casavellis' claims of being members of an LLC lack merit. They fail to point to any records showing their addition as members in compliance with A.R.S. § 29-3401(C). Instead, they rely only on a document appointing Nicholas Casavelli to sign on behalf of the LLC. On its face, this document authorizes Nicholas Casavelli as an agent, not a member. With no other record support, the Casavellis failed to show their membership.

ATTORNEY'S FEES AND COSTS

¶45 The Johansons request their attorney's fees on appeal under A.R.S. § 12-349(A). Per our discretion, we award the fees pending compliance with ARCAP 21, having found no meritorious arguments from the Casavellis and considering the numerous motions and issues raised before this court. *See* A.R.S. § 12-349(A)(3) (A court must assess reasonable attorney's fees if the attorney or party "unreasonably expands or delays the proceedings."). This case exemplifies a party expanding the litigation by filing and raising voluminous motions and issues, many of which have been previously raised and rejected, thereby expanding the litigation beyond what is necessary to resolve the action. As the prevailing party, the Johansons are also awarded their costs under A.R.S. § 12-341 upon compliance with ARCAP 21.

CONCLUSION

¶46 We affirm.



MATTHEW J. MARTIN • Clerk of the Court
FILED: JR

Appendix B: Order of the Arizona Supreme Court Denying Review
(No. CV-25-0194-PR) App. [Page 14]



Supreme Court

STATE OF ARIZONA

ANN A. SCOTT TIMMER
Chief Justice

ARIZONA STATE COURTS BUILDING
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AARON C. NASH
Clerk of the Court

November 6, 2025

RE: JOHANSON et al v CASAVELLI et al
Arizona Supreme Court No. CV-25-0194-PR
Court of Appeals, Division One No. 1 CA-CV 24-0320
Maricopa County Superior Court No. CV2017-055490

GREETINGS:

The following action was taken by the Arizona Supreme Court on November 4, 2025, regarding the above-referenced cause:

ORDERED: Appellants' Motion to Review and Vacate the Court of Appeals' Order Awarding Attorney's Fees and Costs Pursuant to ARCAP 21(C) = DENIED.

FURTHER ORDERED: Petition for Review = DENIED.

Aaron C. Nash, Clerk

TO:

Nicolina Castelli
Nicholas Casavelli
Bryan L Eastin
Christopher J Charles
Matthew J Martin
ck

**Additional material
from this filing is
available in the
Clerk's Office.**