

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

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LAURA OLGUIN, AN UNMARRIED WOMAN, INDIVIDUALLY,  
*Plaintiff/Appellant,*

*v.*

ROBERT CAMPBELL AND JO ANNE CAMPBELL, BOTH INDIVIDUALLY  
AND AS TRUSTEES OF THE ROBERT DALE CAMPBELL  
AND JO ANNE CAMPBELL REVOCABLE TRUST,  
*Defendants/Appellees.*

No. 2 CA-CV 2014-0113  
Filed August 3, 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NOT FOR PUBLICATION  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. C20135784  
The Honorable Christopher Staring, Judge

**AFFIRMED**

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COUNSEL

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By Patrick J. Farrell  
*Counsel for Plaintiff/Appellant*

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Warnock MacKinlay & Carman, PLLC, Mesa  
By J. Kent MacKinlay  
*Counsel for Defendants/Appellees*

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**MEMORANDUM DECISION**

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

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E C K E R S T R O M, Chief Judge:

¶1 Plaintiff/appellant Laura Olguin and defendant/appellee Robert Campbell were former partners in CRT Partners I, LLP (CRT), an entity that operated numerous Jack in the Box franchise restaurants in southern Arizona. After a bench trial, the trial court dissolved CRT and entered judgment in favor of Campbell.<sup>1</sup> On appeal, Olguin primarily challenges the court’s determinations that (1) her attempt to extend her employment as CRT’s chief executive officer (CEO) was void and (2) Campbell did not breach any fiduciary duties with respect to certain amended leases that raised rents on CRT and increased payments to separate entities in which Campbell held an interest. We affirm for the reasons set forth below.

**Factual and Procedural Background**

¶2 “When reviewing issues decided following a bench trial, we view the facts in the light most favorable to upholding the court’s ruling.” *Bennett v. Baxter Group, Inc.*, 223 Ariz. 414, ¶ 2, 224 P.3d 230, 233 (App. 2010). Before the summer of 2004, CRT’s partners were Olguin, Campbell, and Claire Thomas. Thomas served as CRT’s administrative partner. In that capacity she was

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<sup>1</sup>The judgment included Campbell and his wife, Jo Anne Campbell, both individually and as trustees of the Robert Dale Campbell and Jo Anne Campbell Trust. For purposes of this decision, we need not specifically refer to these defendants.

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either specifically authorized or had apparent authority to execute leases she deemed necessary for CRT.

¶3 In addition to having interests in CRT, Campbell and Thomas each held a fifty percent membership interest in T.C. Real Estate, LLC (TCRE) and Jack Annuity (JA). Together, these entities held the majority of the properties leased by CRT.

¶4 By 2004, Campbell had become dissatisfied with Thomas's performance in CRT. Thomas wanted to sell her interest in CRT and retire. Olguin, in turn, wanted a greater role and interest in the partnership. As a condition of Thomas selling her interest, she wished to amend CRT's leases with TCRE and JA, thereby increasing CRT's rents from what she believed to be below-market rents to rents at market value. Olguin was informed in writing that these leases would have to be amended in order for her interest in the partnership to increase.

¶5 While Thomas's sale was being negotiated, Jack in the Box approved Olguin to replace Thomas as a qualified "[o]perator," which is a necessary position for each franchisee to have. Thomas prepared and executed several documents entitled First Amendment to Lease (Amended Leases) on behalf of CRT, TCRE, and JA. Thomas, Campbell, and Olguin executed the Purchase and Sale Agreement in July 2004.

¶6 As a result of Thomas's sale, Olguin increased her ownership in CRT from ten to twenty-two percent. When the sale occurred, Olguin and Campbell executed a revised Partnership Agreement for CRT. They also executed an Employment Agreement making Olguin CRT's CEO for a ten-year term.<sup>2</sup> The Employment Agreement contained a provision stating that it would automatically renew unless a notice of termination was provided.

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<sup>2</sup>Although the Employment Agreement stipulated that the term was to begin in December 2003, several months before the agreement was actually executed, this detail is not material to the issues presented on appeal.

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¶7 As the trial court noted, CRT was “hit hard by the economic downturn” in 2008, and the partnership became unprofitable in 2011. Campbell invested significant sums of money in CRT to meet its expenses, but it continued to operate at a loss. In September 2013, four months before her original term of employment was set to terminate or renew, Olguin executed an Extension Agreement that purported to extend her term of employment for another ten years. Campbell refused to recognize the validity of the extension.

¶8 Olguin filed a complaint against Campbell in October 2013 that asserted a number of claims, including breach of fiduciary duty and interference with a business advantage. Campbell filed an answer that included a counterclaim seeking to dissolve CRT. The trial court made extensive written findings of fact and conclusions of law. It then entered a signed, final judgment in favor of Campbell that dissolved and wound up the business of CRT. We have jurisdiction over Olguin’s appeal pursuant to A.R.S. §§ 12-120.21(A)(1) and 12-2101(A)(1).

### Employment Extension

¶9 Olguin first contends she properly extended her term of employment under the Employment Agreement, and she argues the trial court erred in finding otherwise. She maintains, specifically, that she was the only person authorized to renew or terminate her employment as CEO and that Campbell’s consent was irrelevant to this decision.

¶10 We interpret contracts de novo with the purpose of ascertaining and enforcing the parties’ intent. *ELM Retirement Ctr. v. Callaway*, 226 Ariz. 287, ¶ 15, 246 P.3d 938, 941 (App. 2010). To do so, “we first ‘look to the plain meaning of the words as viewed in the context of the contract as a whole.’” *Desarrollo Inmobiliario y Negocios Industriales de Alta Tecnología de Hermosillo, S.A. de C.V. v. Kader Holdings Co.*, 229 Ariz. 367, ¶ 12, 276 P.3d 1, 5 (App. 2012), quoting *United Cal. Bank v. Prudential Ins. Co. of Am.*, 140 Ariz. 238, 259, 681 P.2d 390, 411 (App. 1983). We “‘apply a standard of reasonableness’ to contract language,” *State ex rel. Goddard v. R.J. Reynolds Tobacco Co.*, 206 Ariz. 117, ¶ 12, 75 P.3d 1075, 1078 (App.

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2003), *quoting Chandler Med. Bldg. v. Chandler Dental Grp.*, 175 Ariz. 273, 277, 855 P.2d 787, 791 (App. 1993), and will interpret an agreement, whenever possible, in a way that “gives reasonable, lawful and effective meaning to all the terms.” *Hall v. Schulte*, 172 Ariz. 279, 283, 836 P.2d 989, 993 (App. 1992).

¶11 Olguin does not dispute the trial court’s finding that the Employment Agreement was both referenced in and part of the Partnership Agreement. Section 12 of the Partnership Agreement provided:

Unanimous Consent: Olguin shall have the responsibility and authority to administer the day to day affairs of CRT, pursuant to her employment agreement with CRT. However, *any action other than the day to day business of CRT, shall only be undertaken with the unanimous consent of all partners of CRT.* The following acts shall require the unanimous consent of all partners of CRT:

- (A) Amendment of the partnership agreement;
- (B) Admission of new partners;
- (C) Borrowing on behalf of the partnership;
- (D) Transferring any property of CRT other than in the ordinary course of business;
- (E) Pledging the assets of CRT;
- (F) Closing an existing franchise location;  
or
- (G) Amending or canceling a franchise agreement with Jack[-]in-the-Box.

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(Emphasis added.) Section 10 of the Partnership Agreement, which addressed compensation, further stated:

Olguin shall devote her full-time efforts to managing the day to day affairs of CRT, and shall be employed by CRT under the terms of that Employment Agreement attached as Exhibit B hereto. Otherwise, no partner shall receive a salary or other compensation for his, her or its services to the partnership as such, without the consent of all of the parties hereto.

¶12 The Employment Agreement, in turn, stated in § 1:

Employment and Term of Employment.  
CRT hereby employs [Olguin] and [Olguin] hereby accepts employment from CRT for a period commencing December 22, 2003 and terminating January 2014 as Chief Executive Officer of the business conducted by CRT, subject however to prior termination as hereinafter provided.

At the expiration of the term of employment set forth herein, this Agreement shall automatically renew, provided neither party provides written notice to the other of termination at least thirty (30) days prior to the scheduled expiration date, or unless [Olguin] cannot continue to be employed, due to physical or mental problems, or the physical or mental problems of a family member.

¶13 On September 1, 2013, Olguin executed the Extension Agreement on behalf of CRT and herself, extending her employment as CEO until December 31, 2023. The trial court noted that this action was unnecessary under the automatic renewal provision of the original Employment Agreement. The court further found that

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Olguin took this action “without consulting Campbell . . . because she knew Campbell was unhappy with her performance, and . . . she was attempting to preempt notice of non-renewal.” We agree with the trial court’s legal conclusion that the extension was invalid; thus, we need not address the court’s additional finding as to Olguin’s motivation for taking such action. *See Long v. Napolitano*, 203 Ariz. 247, ¶ 12, 53 P.3d 172, 178 (App. 2002) (appellate court will affirm judgment if legally correct).

¶14 Extending Olguin’s ten-year Employment Agreement as CEO did not qualify as “administer[ing] the day to day affairs of CRT” within the meaning of § 12 of the Partnership Agreement. Rather, it was a long-term decision that effectively resulted in one partner receiving a salary from CRT, which required the other partner’s consent under § 10 of that agreement. Olguin’s contrary interpretation of the Partnership Agreement cannot account for the express provisions that restrict her authority to managing the “day to day” business and affairs of CRT. Her theory would render this language superfluous, even though it appears in three separate clauses. It would likewise render superfluous the renewal and termination provisions in § 1 of the Employment Agreement, as the trial court correctly observed.

¶15 We do not interpret contractual terms in a manner that would render them meaningless, *Azta Corp. v. U.S. Fire Ins. Co.*, 223 Ariz. 463, ¶ 45, 224 P.3d 960, 973 (App. 2010); *MT Builders, L.L.C. v. Fisher Roofing, Inc.*, 219 Ariz. 297, n.9, 197 P.3d 758, 766 n.9 (App. 2008), but rather presume “the language used was placed in the contract for a specific purpose.” *Tucker v. Byler*, 27 Ariz. App. 704, 707, 558 P.2d 732, 735 (1976). By its terms, the Employment Agreement specified the mechanism for its renewal (automatic, with no action needed) as well as its termination (by notice at least thirty days before expiration). Neither the Partnership Agreement nor the Employment Agreement authorized Olguin to unilaterally extend her employment as CEO during the window of time in which CRT could still provide a notice of termination. Although renewal might appear to be a foregone conclusion given that CRT could not provide a unanimous notice of termination so long as Olguin wished to continue her employment as CEO, the fact remains that the

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extension as Olguin attempted it here was unauthorized and conflicted with the plain terms of the Employment Agreement. The trial court therefore correctly found the Extension Agreement was void.

¶16 Olguin counters that the trial court “failed to apply the basic principles of contract interpretation.” Citing the principle of *expressio unius est exclusio alterius*, she claims § 12 of the Partnership Agreement provided an exhaustive list of items requiring the unanimous consent of the partners, and that list did not include extending her term of employment. See *Vinson v. Marton & Assocs.*, 159 Ariz. 1, 8, 764 P.2d 736, 743 (App. 1988) (“The expression in a contract of one or more things in a class implies the exclusion of all other things.”). But as we explained above, to interpret § 12 as providing an exclusive list of items requiring unanimous consent, rather than mere examples, would render superfluous those provisions expressly limiting Olguin’s authority to “day to day” operations. “[W]e do not construe one term in a way that renders another meaningless,” but instead interpret “each part of a contract . . . ‘to bring harmony, if possible, between all parts of the writing.’” *ELM Retirement Ctr.*, 226 Ariz. 287, ¶ 18, 246 P.3d at 942, quoting *Gesina v. Gen. Elec. Co.*, 162 Ariz. 39, 45, 780 P.2d 1380, 1386 (App. 1988). The trial court thus reasonably construed the list of items in § 12 as being illustrative rather than restrictive, thereby harmonizing these provisions in the contract.

¶17 Olguin further maintains that §§ 3 and 4 of the Employment Agreement, which specified her management duties and authorized her to enter into contracts, permitted her to extend her own employment. Section 4 allowed Olguin “to enter into and to bind CRT to any and all contracts.” The provision specified one exception related to certain real property or equipment contracts, which it described as “the only limitation upon [Olguin]’s authority to bind CRT.” Relying on this provision, Olguin concludes “[t]here is . . . no limitation on her authority to renew her employment agreement.” Yet this expansive interpretation is undermined by §§ 10 and 12 of the Partnership Agreement, which provided that Olguin’s terms of employment and compensation as CEO were to be limited. Section 4 of the Employment Agreement therefore was not

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the only limitation on Olguin's authority. As CEO, she could not unilaterally renegotiate her own contract, nor could she extend it in a manner that was inconsistent with the Employment Agreement.

¶18 Olguin similarly argues that § 13 of the Employment Agreement gave her broad authority to hire and fire any employee, with one exception listed. Because she did not fall within that express exception, she maintains she had the authority to rehire herself by extending her employment as CEO. Again, however, this authority was limited to employees who were not members of the partnership and who were not the CEO.

¶19 Olguin further argues that the extension of the Employment Agreement was consistent with and essential to CRT's franchise agreements with Jack in the Box, which required a qualified operator to serve for the twenty-year term of the franchise agreement. Assuming *arguendo* that a court could look to evidence beyond the terms of the Employment Agreement and Partnership Agreement to ascertain the parties' intent regarding those contracts, the trial court correctly noted that the evidence at trial established other operators could be substituted for Olguin. Thus, neither the franchise agreement nor Olguin's status as an operator provides a basis for this court to disturb the judgment.

**Breach of Duties**

¶20 Olguin next argues that Campbell committed a "breach of his fiduciary and contractual duties [that] resulted in excessively high lease rates." We understand this argument to relate to count three of her complaint, which alleged Campbell had violated his statutory fiduciary duties of loyalty and care under A.R.S. § 29-1034(B) and (C), respectively. These two subsections of the statute list the only fiduciary duties one partner owes to another or to the partnership itself. § 29-1034(A). A contract such as a partnership agreement "may identify activities and determine standards for measuring performance of the duties," *Unif. P'ship Act* (1997) § 404 cmt. 1, 6 U.L.A. 144 (2001), but it does not determine the fiduciary duties owed, and a breach of a contractual duty is not necessarily a breach of the duties imposed by § 29-1034. *Cf. Jones v. Augé*, 344 P.3d

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989, 1000 (N.M. Ct. App. 2014) (discussing duties to corporation and shareholders).

¶21 In the thirty-page section of her opening brief devoted to this issue, Olguin does not clearly articulate and support her position concerning Campbell’s alleged breaches. Although she specifies which fiduciary duties she believes were breached by Claire Thomas, the former partner of CRT who prepared and executed the Amended Leases, Olguin does not explain why Thomas’s actions would be legally attributed or imputed to Campbell. Campbell maintains that any breaches by Thomas are irrelevant to this appeal because she was dismissed as a party below. Olguin has provided no authority, and we have found none, stating that one partner is responsible for another’s actions against the partnership. *Cf. Johnson v. Weber*, 166 Ariz. 528, 528, 530, 803 P.2d 939, 939, 941 (App. 1990) (general partner not responsible for other general partner’s incompetence). Indeed, the legal basis for Campbell’s liability is especially unclear in light of Olguin’s statements on appeal that the Amended Leases were “probably more of a detriment” to Campbell and that he “play[ed] no role in any of those negotiations and ha[d] no knowledge of the terms of the First Amendments.” *Cf. Hall Fam. Props., Ltd. v. Gosnell Dev. Corp.*, 185 Ariz. 382, 387, 916 P.2d 1098, 1103 (App. 1995) (“Arizona law . . . imposes liability on corporate officers and directors if they *knowingly* participate or acquiesce in corporate torts.”) (emphasis added).

¶22 In contrast to her specific allegations regarding Thomas, Olguin fails to specify which fiduciary duty in § 29-1034 Campbell allegedly breached, or exactly how he did so. This omission is significant, in part, because a partner’s duty of care in conducting partnership business is limited to “refraining from engaging in grossly negligent or reckless conduct, intentional misconduct or a knowing violation of law.” § 29-1034(C). Simple negligence is not actionable. *Johnson*, 166 Ariz. at 530, 803 P.2d at 941.

¶23 Rule 13(a)(7), Ariz. R. Civ. App. P., requires an appellant to develop a legal argument in an opening brief with supporting factual and legal citations. It is not incumbent on this court to develop a party’s argument. *Ace Auto. Prods., Inc. v. Van*

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*Duyn*, 156 Ariz. 140, 143, 750 P.2d 898, 901 (App. 1987). Conclusory assertions do not qualify as adequately developed arguments and may be deemed waived on appeal. See *In re \$26,980.00*, 199 Ariz. 291, ¶ 28, 18 P.3d 85, 93 (App. 2000). It would therefore be appropriate for this court to disregard Olguin's conclusory assertions that Campbell "completely abdicated his duties," engaged in "wrongful conduct," and had "loyalties [that] were divided" — especially when the present case is "very complex and convoluted," in Olguin's own words.

¶24 Even without waiver, however, we would find no basis to disturb the trial court's judgment. The court expressly found that Olguin had failed to prove any breach of Campbell's partnership duties owed to her under § 29-1034. As to a partner's duty of care, we note that determinations of gross negligence and recklessness usually are reserved for the trier of fact. See *Smith v. Chapman*, 115 Ariz. 211, 214, 564 P.2d 900, 903 (1977); *Armenta v. City of Casa Grande*, 205 Ariz. 367, ¶ 21, 71 P.3d 359, 365 (App. 2003); *Newman v. Sun Valley Crushing Co.*, 173 Ariz. 456, 460-61, 844 P.2d 623, 627-28 (App. 1992). The court found here, consistent with the record, that the average rent per store that CRT paid to TCRE and JA under the Amended Leases was lower than the average rent CRT paid to other landlords. The court further found that CRT had remained profitable under the Amended Leases until 2010, when CRT suffered substantially reduced sales revenues that continued for several years. Thus, even if the record establishes that the rents under the Amended Leases were above the market rate, they were not so egregious or excessive to demonstrate gross negligence as a matter of law or an abuse of discretion by the trial court.

¶25 Olguin contends the average rent figure was "meaningless" because it did not reflect whether the rent on each particular property covered by the Amended Leases was above its market rate. The average rent datum was meaningful and probative, however, on the question of whether Campbell's alleged malfeasance concerning the Amended Leases rose to the level of gross negligence, recklessness, or intentional misconduct under § 29-1034(C). Although the evidence might allow different inferences to be drawn about Campbell's degree of culpability for any above-

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market rental rates, it was the trial court's role, not ours, to resolve this factual question. *See Sholes v. Fernando*, 228 Ariz. 455, ¶ 6, 268 P.3d 1112, 1115 (App. 2011). An implicit finding that Campbell was merely negligent with respect to the Amended Leases is both supported by the record and consistent with the trial court's express findings. *See id.* Accordingly, the trial court properly found that Campbell did not breach the duty of care under § 29-1034(C). *See Gen. Elec. Capital Corp. v. Osterkamp*, 172 Ariz. 191, 193, 836 P.2d 404, 406 (App. 1992) ("[I]f the judgment can be sustained on any theory framed by the pleadings and supported by the evidence, we must affirm it.").

¶26 As to the duty of loyalty, Olguin appears to base her claim on § 29-1034(B)(2). That provision requires a partner "[t]o refrain from dealing with the partnership in the conduct . . . of the partnership business as or on behalf of a party having an interest adverse to the partnership." *Id.* As we understand her argument, Olguin maintains that Thomas was acting as an adverse party to CRT when she implemented the Amended Leases because she intended at that time to sell all her interests in CRT and fund her retirement with rents collected from CRT by TCRE and JA—entities that she co-owned with Campbell. He, in turn, breached his duty of loyalty to Olguin either by acting on behalf of Thomas—that is, by allowing her to implement the amendments on her own—or by directly serving his own adverse interests insofar as he accepted above-market rents from CRT.

¶27 The trial court's ruling suggests that it found no breach of loyalty because Olguin had ratified the Amended Leases. "All of the partners . . . specified in the partnership agreement may authorize or ratify an act or transaction that otherwise would violate a fiduciary duty of a partner." § 29-1034(H). The court noted that Campbell's interests in TCRE and JA were never concealed from Olguin; "Campbell's status as both landlord and tenant was clear to" her. The court further found that Olguin knew of the terms of the Amended Leases in 2004, and she directed payments under them for nearly nine years. Moreover, in her role as CEO, the court noted that Olguin executed an Omnibus Amendment to Leases in October 2010. That document provided, in relevant part, that "all terms,

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covenants and conditions of the Leases are hereby restated and reaffirmed and shall remain unmodified and in full force and effect.” Based on this ratification by both remaining partners of CRT, the court correctly determined that Campbell did not breach his fiduciary duty of loyalty with respect to the Amended Leases.

¶28 Olguin’s acquiescence to the Amended Leases provides an additional ground for affirming the judgment. A partner acquiesces to an invalid or unauthorized contract, and thereby validates a transaction, by manifesting both knowledge and acceptance of it. *See Wash. Nat’l Trust Co. v. W.M. Dary Co.*, 116 Ariz. 171, 174-75, 568 P.2d 1069, 1072-73 (1977). A similar principle exists in equity. “If the plaintiff[] knew of the questionable behavior and did not previously challenge it, while simultaneously accepting a benefit from the now challenged behavior, then a Court will find that the plaintiff[] acquiesced to the wrongdoing and will bar a claim against the alleged wrongdoer.” *Cont’l Ins. Co. v. Rutledge & Co.*, 750 A.2d 1219, 1240 (Del. Ch. 2000).

¶29 Here, as a result of the Amended Leases and Thomas’s contemporaneous sale of her interest in CRT, Olguin acquired a greater interest in CRT and employment as its CEO. As Campbell points out, Olguin took no action to attack the Amended Leases for approximately nine years, until she filed the present lawsuit. Because she knew of and accepted the Amended Leases up to that point, she acquiesced in them, and she cannot now challenge them based on Campbell’s alleged breach of a duty of loyalty.

¶30 Olguin further asserts that an express “condition precedent” in the Purchase and Sale Agreement executed by Thomas, Olguin, and Campbell was not satisfied. That agreement provided that CRT “shall have entered into amendments to its lease agreements with [TCRE] and [JA], on mutually satisfactory terms.” Assuming arguendo this provision was an enforceable condition precedent, the record contains adequate evidence the condition was met.

¶31 “Where there is doubt concerning the nature of the event that is a condition of the obligor’s duty, courts generally prefer an interpretation that will avoid the risk of forfeiture – particularly

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where that risk is substantial . . . .” *L. Harvey Concrete, Inc. v. Agro Constr. & Supply Co.*, 189 Ariz. 178, 182, 939 P.2d 811, 815 (App. 1997). The sale agreement stated the condition was to be satisfied “at or prior to the Closing,” in 2004. As noted, the parties moved forward with the sale of Thomas’s interests in CRT, and CRT paid rent under the Amended Leases for a number of years thereafter. The record therefore supports the trial court’s determination that the “mutually satisfactory terms” condition was satisfied in 2004, when the Amended Leases were executed. The parties’ satisfaction was not to be assessed on a rolling basis, as the trial court correctly determined.

**Other Issues**

**Dissolution and Dissociation**

¶32 Olguin maintains that Campbell’s breaches of his duties led to CRT’s dissolution and that the dissolution “was not supported by the evidence or the law.” Campbell responds that any issues concerning the dissolution are now moot because the dissolution has been concluded. In her reply, Olguin does not address this mootness argument or clarify the remedy she requests. Instead, she simply asserts that “CRT should not have been dissolved” and that she “has every right to appeal the trial court’s wrongful decision.”

¶33 “[A] case is moot ‘where as a result of a change of circumstances before the appellate decision, action by the reviewing court would have no effect on the parties.’” *Hall v. World Sav. & Loan Ass’n*, 189 Ariz. 495, 504, 943 P.2d 855, 864 (App. 1997), quoting *Vinson*, 159 Ariz. at 4, 764 P.2d at 739. We generally do not consider moot questions, *In re Henry’s Estate*, 6 Ariz. App. 183, 188, 430 P.2d 937, 942 (1967), and an appellant’s failure to respond to an argument in an answering brief may justify a summary disposition on appeal. See *Ariz. Dep’t of Pub. Safety v. Indus. Comm’n*, 170 Ariz. 275, 277, 823 P.2d 1283, 1285 (App. 1991). Because the issues are now moot, we do not address the cause of or grounds for CRT’s dissolution. We likewise do not address Olguin’s claims regarding either party’s dissociation from the now-dissolved partnership.

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**Expert Evidence**

¶34 Olguin also contends the trial court erred in precluding a report and certain testimony of her expert witness Marc Fleishman due to untimely and inadequate disclosure. She acknowledges that the record on appeal does not contain her disclosure list of witnesses and exhibits on which the court based its ruling, but she states in her opening brief that she will provide this document “at the Court’s request.”

¶35 It is an appellant’s obligation to ensure the appellate record contains all documents necessary to consider an issue raised on appeal. *State ex rel. Dep’t of Econ. Sec. v. Burton*, 205 Ariz. 27, ¶ 16, 66 P.3d 70, 73 (App. 2003). Our review is limited to items in the record before us, *A Tumbling-T Ranches v. Flood Control Dist. of Maricopa Cnty.*, 222 Ariz. 515, ¶ 99, 217 P.3d 1220, 1248 (App. 2009), and we presume any document not in the record would support the trial court’s decision. *Ashton-Blair v. Merrill*, 187 Ariz. 315, 317, 928 P.2d 1244, 1246 (App. 1996). Accordingly, in the absence of evidence demonstrating that the expert witness and his report were disclosed in an adequate, timely fashion, we have no basis to disturb the trial court’s ruling.

**Disposition**

¶36 For the foregoing reasons, the judgment is affirmed. Both parties have requested an award of attorney fees on appeal pursuant to A.R.S. § 12-341.01(A) and the Partnership Agreement. We deny Olguin’s request but grant Campbell’s, subject to his compliance with Rule 21, Ariz. R. Civ. App. P.