

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

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GREGORY BEST,  
*Plaintiff/Appellant,*

*v.*

RANCHO TEMPE M.H.P., L.L.C.; FRANK LEE; AND SUE ARMSTRONG,  
*Defendants/Appellees.*

No. 2 CA-CV 2014-0155  
Filed January 29, 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NOT FOR PUBLICATION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 Maricopa County  
No. CV2012-003905  
The Honorable Arthur T. Anderson, Judge

**AFFIRMED**

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COUNSEL

Gregory Best, Phoenix  
*In Propria Persona*

Jones, Skelton & Hochuli, P.L.C., Phoenix  
By William D. Holm, Jonathan P. Barnes, Jr.,  
and Chelsey M. Golightly, Phoenix  
*Counsel for Defendants/Appellees*

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**MEMORANDUM DECISION**

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

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M I L L E R, Presiding Judge:

¶1 In this mobile home tenancy matter, Gregory Best appeals from summary judgment entered in favor of Rancho Tempe M.H.P., L.L.C., Frank Lee, and Sue Armstrong (collectively, “Rancho”). He argues the trial court erred in concluding a security deposit paid by the previous owner of the mobile home could not be credited to him, and that it subsequently erred in entering summary judgment as to his remaining claims. For the following reasons, we affirm.

**Factual and Procedural Background**

¶2 We view all facts and reasonable inferences in the light most favorable to Best, as the party against whom summary judgment was entered. *TDB Tucson Group, L.L.C. v. City of Tucson*, 228 Ariz. 120, ¶ 2, 263 P.3d 669, 671 (App. 2011). In the summer of 2011, Best called Rancho to inquire about a banner he had seen advertising mobile homes for sale. He spoke to an assistant manager, telling her he had properties in Phoenix for which he needed trailers. The assistant manager told him the trailers owned by Rancho could not be moved, but those belonging to private party owners could leave. Without informing Rancho, Best purchased a mobile home in Rancho from Veronica Castaneda.<sup>1</sup>

¶3 On June 1, 2011, Castaneda’s roommate told the manager of Rancho that Best had purchased the mobile home. No one provided the manager with information regarding the date of

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<sup>1</sup>The exact purchase date is not apparent from the record and Best’s title to the mobile home was not issued until July 8, 2011, which was well after the events described here.

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sale or assumption of the lease agreement with Rancho. Castaneda had not paid rent or utilities to Rancho for May or June. On June 6, 2011, the manager discovered two new tenants living in the mobile home. The tenants told the manager they were leasing from Best.

¶4 In August 2011, Best requested assistance from Rancho in moving his mobile home, but Rancho refused to cooperate unless back rent was paid. Best filed a complaint alleging consumer fraud, abuse of process, blackmail, and intentional interference with a business expectancy. Rancho filed a motion for summary judgment, which the trial court granted. This appeal followed.

**Tortious Interference**

¶5 Best first argues the trial court erred by granting summary judgment in favor of Rancho on his claim for tortious interference with a business expectancy. We review a trial court's ruling on a motion for summary judgment de novo, and we affirm if there is no genuine issue of material fact and if Rancho is entitled to judgment as a matter of law. *See Neonatology Assocs., Ltd. v. Phoenix Perinatal Assocs., Inc.*, 216 Ariz. 185, ¶ 6, 164 P.3d 691, 693 (App. 2007).

¶6 In order to withstand summary judgment, Best had the burden of producing evidence that created a genuine issue of fact on each element in question. *See Orme Sch. v. Reeves*, 166 Ariz. 301, 309-10, 802 P.2d 1000, 1008-09 (1990). A tortious interference claim requires the existence of a valid business expectancy, the defendant's knowledge of that expectancy, intentional interference causing breach or termination of that expectancy, and damages. *Dube v. Likins*, 216 Ariz. 406, ¶ 8, 167 P.3d 93, 98 (App. 2007). The interference must be both intentional and with an improper motive or means. *Neonatology Assocs.*, 216 Ariz. 185, ¶ 8, 164 P.3d at 693-94. Best contends on appeal, as he did below, that Rancho's interference with his business expectancy was based on its refusal to release the mobile home until back rent was paid.

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¶7 Relying on A.R.S. § 33-1485.01,<sup>2</sup> the trial court determined Best could not move the mobile home without paying money owed for rent. The court also found no evidence, such as evidence of an assignment, to support Best's claim that a security deposit presumed to have been paid by Castaneda should have been credited to him as the subsequent purchaser. The court then dismissed all three claims for failure to present a prima facie case.

¶8 Best does not contest Rancho's right to hold a mobile home until back rent has been paid, but he contends that the security deposit paid by Castaneda should have been credited to him, which he implies would have covered the back rent.<sup>3</sup> He contends that the credit was mandated by § 13-1485.01(A).<sup>4</sup> We disagree with his

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<sup>2</sup>Section 33-1485.01(B), A.R.S., provides, in part:

A mobile home shall not be removed from a mobile home park by any tenant, any mobile home owner or any other person or entity unless the person or entity that is removing the mobile home has received from the landlord a written clearance for removal. The landlord shall not interfere with the removal of a mobile home for any reason other than nonpayment of monies due as of the date of removal even if the term of the rental agreement has not expired.

<sup>3</sup>Best does not contest the trial court's conclusion that he owed back rent.

<sup>4</sup>Section 33-1485.01(A) states, in pertinent part:

A tenant or a tenant's successor in interest shall provide the landlord with a written notification of intent to remove a mobile home from a mobile home space. . . . [T]he landlord may require a security deposit or surety bond of not more than one thousand dollars minus the amount of any security

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interpretation of the statute and find no factual support for his credit argument.

¶9 “If a statute is unambiguous, we apply its terms without resorting to other tools of statutory interpretation, unless doing so leads to impossible or absurd results.” *See Orca Commc’ns Unlimited, LLC v. Noder*, 236 Ariz. 180, ¶ 9, 337 P.3d 545, 547 (2014). The plain language of § 33-1485.01(A) requires an accounting for any security deposit paid “as prescribed in [A.R.S.] § 33-1431[(C)].” § 33-1485.01(A). Section 33-1431(C) states in relevant part, “The security deposit *may* be applied to the payment of accrued rent and the amount of damages which the landlord has suffered . . . if it is itemized by the landlord in a written notice delivered to the tenant.” (Emphasis added.) Nothing in the language of the applicable statutes requires the security deposit to be applied to the previous rent or assigns the security deposit to the subsequent owner of the mobile home.

¶10 Further, even assuming the security deposit here should have been applied to the arrearage, it would not have covered the amount past due. Section 33-1485.01(B) allows a landlord to interfere with the removal of a mobile home for “nonpayment of monies.” Best calculates the total security deposit at \$1,072.<sup>5</sup> He contends the amount due was only \$750, which would reflect only two months of rent. However, a notice of termination sent to Best and filed by him below showed a past-due balance of \$1,307.21 as of June 13, 2011, which included accumulated utilities, taxes, and late fees. Nothing in the statute provides or suggests that “monies” is

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deposit that was collected at the beginning of the tenant’s tenancy. . . . The landlord shall provide an accounting of any security deposit as prescribed in [A.R.S.] § 33-1431, subsection C.

<sup>5</sup>There is no documentary proof that a security deposit had been paid, but the original lease notes an amount of \$400. Best argues that amount earned statutory interest and then doubled because it was not returned to Castaneda within fourteen days.

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limited to the base rent, and Best does not contend the statute must be interpreted in that manner. Because Rancho's interference with removal of the mobile home was supported by statute, the trial court did not err in granting summary judgment for Rancho on the tortious interference claim.<sup>6</sup>

**Remaining Claims**

¶11 Best makes several conclusory statements that his abuse of process and consumer fraud causes of action were sufficiently pled to establish a prima facie case. He claims the trial court erred, but does not cite any evidence, statutes, or case law in support of this argument. These claims are therefore waived. Ariz. R. Civ. App. P. 13(a)(7)(A) (argument must contain citation of legal authorities and reference to record); *Rice v. Brakel*, 233 Ariz. 140, ¶ 28, 310 P.3d 16, 23 (App. 2013).

¶12 And even were the claims not waived, they lack merit. Although the trial court used language of dismissal and determined Best had failed to establish a prima facie case, we may uphold the trial court's summary judgment ruling if correct for any reason. See *Sanchez v. Tucson Orthopaedic Inst., P.C.*, 220 Ariz. 37, ¶ 7, 202 P.3d 502, 504 (App. 2008). Here, the evidence in the record fails to support Best's claims.

¶13 To succeed on an abuse-of-process claim, a claimant must prove the other party committed "(1) a willful act in the use of judicial process; (2) for an ulterior purpose not proper in the regular

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<sup>6</sup>Best's complaint included a separate claim of "blackmail." In its ruling, the trial court did not appear to treat the claim as a separate cause of action in dismissing the claims against Rancho. Aside from several conclusory statements that he was blackmailed, Best's only reference to this claim on appeal is an argument that it would have been supported had the trial court applied the statute properly. This lacks further explanation and is therefore waived on appeal. Ariz. R. Civ. App. P. 13(a)(7)(A) (argument must contain citation of legal authorities and reference to record); *Rice v. Brakel*, 233 Ariz. 140, ¶ 28, 310 P.3d 16, 23 (App. 2013).

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conduct of the proceedings.” *Nienstedt v. Wetzel*, 133 Ariz. 348, 353, 651 P.2d 876, 881 (App. 1982). Best provided no evidence of an ulterior purpose. After Best’s tenants had moved out, and believing Best was living in the home without paying rent, Rancho filed an eviction action against Best and obtained a default judgment. Rancho ultimately moved to dismiss the action after discovering Best did not live in the mobile home and had not signed a lease. Because Best does not contradict this evidence, he fails to provide support for the second prong of the claim. *See Orme Sch.*, 166 Ariz. at 310, 802 P.2d at 1009 (party with burden must provide evidence creating genuine issue of fact on element in question).

¶14 A consumer fraud action requires a plaintiff to show a deceptive act or misrepresentation in connection with the sale or advertisement of merchandise and an injury due to the promise. A.R.S. § 44-1522; *Kuehn v. Stanley*, 208 Ariz. 124, ¶ 16, 91 P.3d 346, 351 (App. 2004). The defendant must be a party to the transaction or sale in order to be subject to a claim. *See Sullivan v. Pulte Home Corp.*, 231 Ariz. 53, ¶ 36, 290 P.3d 446, 454 (App. 2012), *vacated in part on other grounds*, 232 Ariz. 344, 306 P.3d 1 (2013). Here, Rancho was not involved in the purchase of the mobile home because Best bought the home from Castaneda. Best’s claim for consumer fraud necessarily fails.

¶15 Best also asks us to “clarify [that] the documents the Appellees are attempting to use is not one of the sham documents the Appellant [has] motioned to have stricken.” He does not, however, argue the trial court erred in denying his motion to strike, nor does he provide any authority to support such an argument. It is therefore waived. Ariz. R. Civ. App. P. 13(a)(7)(A) (argument must contain citation of legal authorities and reference to record); *Brakel*, 233 Ariz. 140, ¶ 28, 310 P.3d at 23.

¶16 Finally, we deny Best’s requests for “appeal costs and fees” because he has not prevailed and he represented himself.

**Disposition**

¶17 For the stated reasons, we affirm the trial court’s judgment in favor of Rancho.