

AN ALTER EGO CLAIM IS SUBJECT TO THE STATUTE OF LIMITATIONS FOR THE UNDERLYING CAUSE OF ACTION

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Specialty Companies Group, LLC v. Meritage Homes of Arizona, Inc.

Arizona Supreme Court | August 5, 2021

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Meritage Homes, along with Hacienda Builders Inc., created Maricopa Lakes LLC to develop a residential real estate project. Maricopa Lakes hired a contractor to manage the project and in 2007 the contractor failed to pay its subcontractor, Specialty Companies Group (“SCG”). In 2009, SCG sued and won rights to enforce a final judgment against the developer Maricopa Lakes. In 2015, SCG sued to enforce the judgment, but did not sue Maricopa Lakes, which had been dissolved by then. SCG sued Meritage under a theory that Meritage was Maricopa Lakes’ alter ego. Without reaching the alter ego theory, the superior court dismissed the claims as time-barred under the six-year statute of limitations applicable to a written contract.

SCG appealed and won. The court of appeals reversed the dismissal, holding that the alter ego claim was “an action on a judgment.” As such, a five-year statute of limitations applied and did not begin to run until the underlying judgment was final.

Meritage sought review, and the Supreme Court reversed again, reinstating the dismissal. SCG’s suit was not just a suit to “enforce” a judgment, said the Court; it was a suit to determine that Maricopa Lakes was actually the alter ego of Meritage and thus that Meritage should be liable for Maricopa Lakes’ breach of contract. Because alter ego claims are derivative, a party seeking to pierce the corporate veil under an alter-ego theory is bound by the limitation period applicable to the cause of action to which the alter-ego claim is tied—here Maricopa Lakes’ breach of a written contract. The Court analyzed the history of “actions on a judgment” and reiterated the narrow reach of A.R.S. § 12-1551 (the statute on enforcing judgments), which was not intended to create or support a standalone veil-piercing action.

There was another reason SCG’s suit was not simply an “enforcement” suit. Meritage was not a party to the original suit in which SCG obtained the judgment against Maricopa Lakes; and Meritage had not had the opportunity to defend against that suit. Allowing SCG to collect on a judgment Meritage could not have defended would violate its due process rights.

[Read the Court Opinion](#)

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