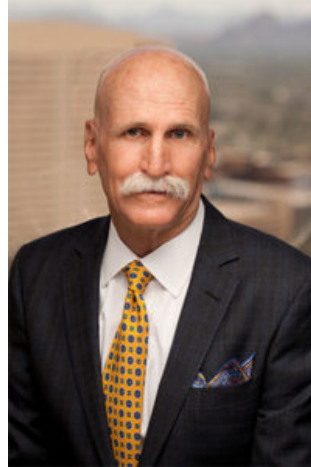


ARIZONA COURT OF APPEALS: A FEDERAL COURT'S FINAL JUDGMENT IN SAME CASE IS BINDING ON REMANDED STATE LAW CLAIMS

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Quinn v. Cardenas

Arizona Court of Appeals

August 1, 2023

JSH Attorneys: [Justin Ackerman](#), [Michele Molinaro](#), [John Masterson](#), and [Derek Graffious](#)

JSH Attorneys Justin Ackerman, Michele Molinaro, John Masterson, and Derek Graffious obtained a favorable Opinion from the Arizona Court of Appeals affirming the dismissal of a plaintiff's state law tort claims in favor of the defendant officer. The Arizona Court of Appeals held that on remand from federal court, a federal court's final judgment is binding under issue preclusion doctrine, requiring dismissal of the case before it was about to proceed to trial.

Plaintiff was involved in an automobile accident with an off-duty officer. Plaintiff and the officer got into an altercation after they pulled into a nearby gas station. The off-duty officer utilized an impact push to create distance and then pulled his service weapon, revealed his status as a police officer, and detained Plaintiff until on-duty officers arrived. Plaintiff then brought four claims against the officer in superior court: a federal 42 U.S.C. § 1983 claim (for excessive force), and three state law claims for assault, false imprisonment, and intentional infliction of emotional distress.

After the officer removed the case to federal court, the federal district court granted summary judgment for the officer on Plaintiff's § 1983 claim on the basis of federal qualified immunity. As part of its federal qualified immunity analysis, the federal court found that the officer's conduct was reasonable under the

circumstances, the officer was reasonably in fear for his safety, and there was no clearly established law prohibiting his conduct. Having disposed of the sole federal claim, the federal court remanded Plaintiff's state law claims back to superior court. Plaintiff did not appeal the federal court's order and judgment to the Ninth Circuit Court of Appeals.

On remand, the officer moved for summary judgment on the remaining state law claims. The superior court granted the motion as to the intentional infliction of emotional distress claim but denied the motion as to the assault and false imprisonment claims, finding issues of fact. The case then changed judges and proceeded to prepare for trial. As the parties were preparing the joint pretrial statements, the officer again raised the impact of the federal district court's ruling on the remaining state law claims, this time on the basis of issue preclusion. The superior court then heard argument on this issue and determined that the federal court's findings in support of its qualified immunity determination addressed the same issues as the remaining state law claims. Accordingly, the superior court dismissed the remaining state law claims with prejudice.

Plaintiff then appealed to the Arizona Court of Appeals challenging the dismissal of only his assault and false imprisonment claims. The Court, in a published opinion, held that: (1) it was appropriate for the superior court to reconsider the issue preclusion argument as part of the pre-trial procedures under Ariz. R. Civ. P. 56(f)(3) and its discretion to manage a civil action to eliminate nonmeritorious claims or defenses prior to trial; (2) the superior court's dismissal of the action just before trial was not an impermissible horizontal appeal from the prior superior court judge's denial of summary judgment; (3) on remand from federal court, issue preclusion rather than the law of the case doctrine must be applied to strike the proper balance between showing respect for federal court judgments and not prematurely cutting off additional state court litigation; and (4) applying the appropriate issue preclusion test (which in this case was governed by federal law), the superior court properly dismissed Plaintiff's remaining assault and false imprisonment state law claims. In so doing, the Court explained, at least in the context of an excessive force claim, that the evidence and arguments required to resolve either qualified immunity defense are nearly the same.

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Justin Ackerman chairs the JSH Appellate Practice Group and represents clients in federal and state appellate matters in cases involving excessive force, wrongful death, personal injury, bad faith, and premises liability. After graduating as the valedictorian of his class from Phoenix School of Law, Justin worked as a law clerk for the Hon. Michael J. Brown in Division One of the Arizona Court of Appeals.

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Michele Molinaro has dedicated her professional career to two areas of law: government liability defense and employment law. Michele's career is focused on defending private employers and public entities and their employees, including police officers, detention officers, emergency responders, public works directors, building inspectors and traffic engineers, etc.

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Derek Graffious represents governmental entities, correctional institutions, and their employees in all aspects of governmental liability, including law enforcement defense, correctional institutions defense, and employment law. He defends clients facing civil rights claims under 42 U.S.C. § 1983 and Title II of the Americans with Disabilities Act, as well as state tort claims.

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