

## COUNTY DOES NOT OWE NON-DELEGABLE DUTY TO PERSON UNDERGOING OUTPATIENT TREATMENT AFTER BEING RELEASED FROM INVOLUNTARY CUSTODY

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*Cohen v. Maricopa County*  
Ct. Appeals, Div. One, August 16, 2011

Authored by the [JSH Appellate Team](#)

A man was involuntarily held in a hospital because he was a danger to self due to depression and repeated drug overdose. After inpatient treatment was completed, he was discharged from the hospital to begin court-ordered outpatient treatment with ValueOptions, the company that contracts with the State. While undergoing outpatient treatment, the man was found passed out with the drug Soma in his pocket. The man was medically cleared at the scene, but taken to an urgent care facility run by Meta Services pursuant to a subcontract with ValueOptions. The physician at the facility determined that medical detention was not necessary, and sent the man home. The next morning, the man was found unconscious at home, and was pronounced dead at the hospital, apparently due to an overdose of the drug oxycodone. Plaintiff, the man's surviving parent and personal representative of his estate, sued ValueOptions, Meta Services, and the County, alleging the County owed non-delegable duties to the decedent and asserting claims for medical negligence, failure to provide psychiatric screening, and violation of the Adult Protective Services Act.

The court of appeals affirmed summary judgment for the County, holding that the County did not owe the decedent a non-delegable duty of care based on Arizona mental health statutes. Once he was released from involuntary custody, the County no longer had exclusive control over him and could not reduce the risk associated with his environment. Further, because the County did not directly contract with others to provide for the man's care (the State did), the County did not have the ability via contract to mandate how the care would be provided. There was no evidence in the record that the County was in any contractual relationship with ValueOptions, and even if there were, there was no evidence ValueOptions was negligently selected as a provider.