

## MICHELE MOLINARIO AND JUSTIN ACKERMAN OBTAIN SUMMARY JUDGMENT ON ROADWAY DESIGN CASE

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*Tourtillot v. City of Yuma* – On April 22, 2013, a traffic accident occurred at a rural

Intersection in Yuma County, Arizona. The Intersection was equipped with STOP signs and flashing warning signs that controlled eastbound and westbound traffic along the Intersection. On the day of the accident, decedent was driving eastbound with two other passengers. Decedent allegedly stopped at the STOP sign at the intersection and then proceeded forward. As she entered the Intersection, Decedent's vehicle was struck by a truck. Decedent and her two other passengers subsequently died from their injuries sustained as a result of the accident.

Prior to the accident, the County had conducted a routine review of the intersection, which included traffic studies and accident report reviews. In 2002, the County decided to implement flashing beacons with oversized stop signs on the east and westbound approach instead of installing a four-way stop.

The successors of decedent and her passengers subsequently sued Yuma County for its alleged negligence to maintain the intersection by failing to install a four way stop. Yuma County moved for summary judgment on Plaintiffs' claims, arguing that it was statutorily immune pursuant to A.R.S. § 12-820.01 and entitled to the affirmative defense contained in A.R.S. § 12-820.03.

Specifically, the County argued that because they it made an affirmative decision in 2002 to select, fund and install one form of traffic countermeasure over others at the Intersection, the County has immunity for this decision under § 12-820.01. In addition, the County's decision not to install additional traffic countermeasures after its 2002 decision to implement flashing STOP signs amounts to a determination of fundamental governmental policy that is also entitled to immunity under § 12-820.01(B). Thus, the County argued it was entitled to absolute immunity against Plaintiffs' claims under both provisions of § 12-820.01.

Following oral argument by attorneys [Michele Molinaro](#) and [Justin Ackerman](#), the trial court agreed with the County and granted summary judgment in its favor, dismissing the case in its entirety.

[Michele](#) focuses her practice in the areas of law enforcement defense, correctional defense, employment law and governmental liability. She has tried both state and federal jury and bench trials and administrative law hearings. In addition to her 17 years of trial experience, Michele has an impressive record of obtaining motions for summary judgment or dismissal on behalf of her clients. Since 2010, 32 of the 38 cases she has filed in federal court were disposed of through orders of dismissal or summary judgment.

[Justin](#) represents clients in federal and state appellate matters in cases involving excessive force, wrongful death, personal injury, bad faith, and premises liability. Justin has successfully represented clients at the Arizona Court of Appeals, Arizona Supreme Court, and Ninth Circuit Court of Appeals.