

With over 75 collective years of experience, the firm's Appellate Group has handled over 800 appeals at all levels of state and federal courts. Working closely with JSH trial lawyers on a variety of matters, our appellate team provides effective counsel from the answer stage through the post-trial motion stage. When civil court decisions are appealed to a higher court, the team is prepared to handle the matter, from administrative appeals to state trial courts, to federal appeals before the U.S. Supreme Court.

In addition, our appellate lawyers are often retained by Valley law firms both before and after trial, to consult, co-counsel, and handle motions and appeals in all areas of litigation defense.

Our substantive areas of practice include:

- Administrative Law
- Automobile Liability
- Aviation
- Civil Rights Defense
- Commercial/Contracts
- Constitutional
- Construction Defect
- Correctional Institutions
- Employment
- Family Law
- General Civil Liability
- Governmental Liability
- Homeowner Associations
- Insurance Coverage & Bad Faith
- Medical & Professional Liability
- Premises Liability
- Product Liability
- School Liability
- Transportation & Trucking Liability
- Tribal Jurisdiction
- Wrongful Death & Personal Injury

We are dedicated to finding the best legal strategies to advocate for our clients. Our attorneys—all law school standouts and the majority of whom are former judicial clerks and/or legal externs—have been instrumental in shaping Arizona law, and are highly respected for their contributions to the field, as well as the results we achieve for our clients.

## REPRESENTATIVE CASES

- Affirming dismissal of case at pretrial conference on the basis of issue preclusion because a prior federal court final judgment was binding on the remanded state court action. *Quinn v. Cardenas*, 1 CA-CV 22-0398, 2023 WL 4880442 (App. Aug. 1, 2023).
- *Southern Arizona Home Builders Association v. Town of Marana*, \_\_ Ariz. \_\_ (Ariz. Supreme Court 1/17/23)  
Town violated development-fee statute by assigning entire cost of upgraded and expanded wastewater treatment facilities to future homeowners.
- Affirming denial of petition to vacate arbitrator's award in our client's favor. *Zahler v. Swift Transp. Co., LLC*, 1 CA-CV 22-0191, 2022 WL 17982941, at \*1 (App. Dec. 29, 2022).
- *Swift Transportation Co. of Arizona L.L.C. v. Carman*, 253 Ariz. 499 (Ariz. Supreme Court 8/23/22)  
Truck driver's negligence before accident was not outrageous conduct required to establish the "evil mind" necessary for punitive damages.
- *McDaniel v. Payson Healthcare Management, Inc.*, 253 Ariz. 250 (Ariz. Supreme Court 7/8/2022) Expert testimony of patient's treating physicians on standard of care did not violate "one-expert rule" in medical malpractice action.
- Affirming dismissal based on notice of claim statute even though injunctive and mandamus relief were the only remedies sought because such relief was still seeking monetary damages. *Yellowman v. Vanderwey*, 1 CA-CV 21-0116, 2021 WL 5706981, at \*2 (App. Dec. 2, 2021).
- *Sampson v. Surgery Center of Peoria, LLC*, 251 Ariz. 308 (Ariz. Supreme Court 7/30/21)  
Expert testimony that did not opine as to patient's probable proximate cause of death was insufficient to prove causation in malpractice action.
- *BLK III, LLC v. Skelton*, 252 Ariz. 583 (App. 2/17/22)  
Residential neighbors' complaints to police about noise from live music venue were made to a "governmental proceeding" protected by the anti-SLAPP law.
- *Coleman v. Amon*, 252 Ariz. 107 (App. 8/17/21)  
Statute precluding admission of healthcare provider's apologetic statements as evidence of liability did not violate separation of powers doctrine.
- Affirming justice court's directed verdict following two day trial in a breach of contract claim for landlord's refusal to return of rental security deposit. *Hawkins v. Grigorian*, LC2021-000153-001 DT, (Ariz. Super. Ct., Aug. 27, 2021).
- Memorandum Decision affirming trial court's grant of motion for judgment on the pleadings for plaintiff's failure to comply with Notice of Claim statute. *Jones-Esposito v. Bishop, et al.*, 2021 WL 2461861 (App. June 17, 2021).
- Affirming City of Yuma's motion to dismiss in Section 1983 case where plaintiff alleged his vehicle was improperly seized in civil asset forfeiture proceeding. *Angulo-Murrieta v. City of Yuma*, 2021 WL 1185909 (App. Mar. 30, 2021), as amended (Mar. 31, 2021).
- Affirming summary judgment for commercial building tenant in premises liability case where plaintiff fell through a roof skylight. *Dabush v. Seacret Direct LLC*, 250 Ariz. 264, 478 P.3d 695 (2021).
- Affirming summary judgment in the plaintiff favor involving claims that family purpose doctrine and negligent entrustment for fatal ATV accident. *Erickson v. Votaw*, CV 2018-090916 (Dec. 22, 2020).

- Memorandum Decision affirming trial court's grant of summary judgment ruling in Lake Havasu City's favor on Plaintiff's 42 U.S.C. § 1983 Monell claims and state law malicious prosecution and abuse of process claims. *Gonzales v. Lake Havasu City*, 2020 WL 7311633, at \*1 (9th Cir. Dec. 11, 2020).
- Memorandum Decision affirming trial court's dismissal of Plaintiff's case challenging Defendants' policy of complying with federal ICE detainer requests for lack of standing. *Montelongo et al., v. Driscoll et al.*, 1 CA-CV 19-0502, 2020 WL 5951104, at \*1 (App. Oct. 8, 2020). [Read decision here.](#)
- Affirming trial court's dismissal of Plaintiff's case for failure to prosecute under Rule 38 and denial of Rule 60 motion). *Lakridis v. Holly Udy-Meekin, et al.*, 1 CA-CV 19-0473, 2020 WL 5804016, at \*1 (App. Sept. 29, 2020). [Read decision here.](#)
- Obtained summary judgment on all claims in officer-involved shooting. *Krause, et al. v. County of Mohave, et al.*, 3:17-CV-08185, 2020 WL 2541728 (D. Ariz. 2020). [Read full case summary here.](#)
- Affirming judgment requiring the state to turn over digital copies of data extracted from electronic equipment seized without probable cause. *Hamberlin v. Arizona Game and Fish*, 249 Ariz. 31 (Ariz. App. 2020).
- Affirming trial court's preclusion of plaintiffs' impeachment evidence regarding defendant's prior drug paraphernalia conviction reduced to a misdemeanor. *Brown v. Dembow*, 248 Ariz. 374 (Ariz. App. 2020), review denied (Nov. 20, 2020).
- Favorably reversing trial court's grant of Rule 60 relief to file a delayed appeal where plaintiff failed to make a showing of due diligence or extraordinary circumstances and rejecting cross-appeal arguments. *Chung v. Choulet*, 248 Ariz. 236 (Ariz. App. 2020), review denied (Aug. 25, 2020).
- Affirming summary judgment for HOA and property management company in defamation and abuse of process case. *Goldman v. Sahl*, 248 Ariz. 512, 462 P.3d 1017 (App. 2020), review denied (Aug. 25, 2020).
- Granting summary judgment for La Quinta based on immunity in police shooting case where plaintiffs alleged hotel staff negligently communicated information to police regarding decedent. *Sweet v. City of Mesa*, 2019 WL 3532187, at \*3 (D. Ariz. Aug. 2, 2019).
- Granting summary judgment for insurer based on non-compliant *Morris*-type agreement between insured and insured's purported assignee in case alleging breach of contract and insurance bad faith. *Country Mut. Ins. Co. v. Martinez*, 2019 WL 1787313 (D. Ariz. Apr. 24, 2019).
- Affirming summary judgment in Mohave County's favor in §§ 1981, 1983, and Title VII wrongful termination action. *Yazzie v. Mohave County*, 751 Fed.Appx. 1018 (9th Cir. 2019).
- Favorably reversing Arizona District Court's summary judgment on 42 U.S.C. § 1983 claims in state court. *Murillo v. City of Glendale*, CV-15-02297-PHX-GMS and No. CV2015-054059 (Feb. 20, 2019).
- Holding that the law of the state where workers compensation benefits were paid determines the assignment rights of employers and employees in third-party actions. *Jackson v. Eagle KMC L.L.C.*, \_\_\_ P.3d \_\_\_, 2019 WL 73631 (Ariz. Supreme Ct. Jan. 2, 2019).
- Addressing challenge to collective entity doctrine for closely-held corporations and LLC's based on Citizens United and Hobby Lobby and under exception to collective entity doctrine. *In Re Twelve Grand Jury Subpoenas*, \_\_\_ F.3d \_\_\_, 2018 WL 5905238 (9th Cir. 2018).
- Memorandum Decision affirming district court's grant of summary judgment on Plaintiff's 42 U.S.C. § 1983 claims for due process violations. *Lancaster v. McEuen*, 683 Fed. Appx. 633 (9th Cir. 2017).
- Obtained favorable opinion from Arizona Supreme Court, holding that claimants who settle third-party claims are not entitled to post-settlement trials to determine percentage of employer fault solely to reduce or extinguish a workers' compensation carrier's lien. *Twin City Fire Ins. Co. v. Leija*, 422 P.3d 1033 (Ariz. 2018). [Read full case summary here.](#)
- Affirming summary judgment in favor of the plaintiff involving 42 U.S.C. § 1983 claims for Fourth Amendment excessive force. *Arnaudo v. Yavapai County, et al.*, CV 16-08164-PCT-DJH (JFM) (May 18, 2018).
- Affirming summary judgment in bad faith action in favor of third party claims administrator on Plaintiff's breach of duty of good faith and fair dealing claim. *Ingram v. RTW, Inc.*, 729 Fed. Appx. 605 (9th Cir. 2018) (argued).
- Reversing and vacating adverse Arizona Court of Appeals memorandum decision, affirming trial court's decision to vacate \$667,000 default judgment, and clarifying meritorious defense standard applicable to default judgments under Ariz.R.Civ.P. 60(c)(6)). *Gonzalez v. Nguyen*, 243 Ariz. 531 (2018). [Read full case summary here.](#)
- Affirmed trial court's grant of remittitur, and clarified that Rule 59(i)'s specificity requirement is equally applicable to orders granting remittiturs or additurs. *Soto v. Sacco*, 242 Ariz. 474, 398 P.3d 90 (2017). [Read full case summary here.](#)
- Addressing scope of trial court's authority to enjoin governmental entities when exercising their statutory authority in managing emergencies. *Boruch v. State ex rel. Halikowski*, 399 P.3d 686 (Ariz. App. 2017).
- Won reversal of the Rule 60(c) ruling setting aside our defense verdict in *Sloan* (Ariz. App. 2017).
- Successfully represented physician in appeal affirming that heightened standard of proof applies to emergency room conduct. *Stafford v. Burns*, 389 P.3d 76 (Ariz. App. 2017).
- Holding mistake concerning identity of correct defendant, under Rule 15's relation-back rule, could be based on mistake of fact or law. *Flynn v. Campbell*, 243 Ariz. 76, 402 P.3d 434 (2017).
- Obtained summary judgment. *Esquivel v. City of Yuma*, CV-15-00090-PHX-NVW, 2016 WL 1719954 (D. Ariz. Apr. 29, 2016).
- Memorandum Decision affirming trial court's grant of summary judgment on Plaintiff's 42 U.S.C. § 1983 claims for deliberate indifference to Plaintiff's medical needs and Eighth Amendment claims and denial of Plaintiff's motions to compel. *Baker v. Bell*, 668 Fed. Appx. 703 (9th Cir. 2016).
- Affirming summary judgment for real estate broker in wrongful death case where Plaintiff claimed Defendant was vicariously liable for the agent's negligence. The Court of Appeals affirmed summary judgment for the broker because (1) Arizona's real estate statutes do not create an employer-employee relationship between brokers and agents; (2) the same statutes do not impose upon the broker a non-delegable duty to supervise an agent's driving; and (3) based on the undisputed facts, the agents was an independent contractor of the broker. *Santorii v. MartinezRusso, LLC*, 240 Ariz. 454, 381 P.3d 248 (App. 2016).
- Successfully defended physician in medical malpractice action; plaintiff was not entitled to automatic substitution of expert at summary judgment stage. *St. George v. Plimpton*, 384 P.3d 1243 (Ariz. App. 2016).
- Affirming trial court's dismissal of Plaintiffs' Complaint and awarding attorneys' fees as a sanction for filing a frivolous appeal. *Camboni v. Golden Hills HOA*, 1 CA-CV 15-0213, 2016 WL 6211790 (Ariz. App. 2016).
- Successfully argued that a claimant must file a notice of claim before filing suit against a city council member. *Villasenor v. Evans*, 386 P.3d 1273 (Ariz. App. 2016).

- Affirming defense verdict and upholding affirmative defense of intoxication under ARS 12-711 against constitutional challenges in case involving fight between hockey game spectators. *Franklin v. Clemett*, 240 Ariz. 587, 382 P.3d 802 (App. 2016).
- A case of first impression, Supreme Court adopted the learned intermediary doctrine and rejected direct to consumer marketing exception. *Watts v. Medicis*, 365 P.3d 944 (Ariz. 2016).
- Successfully argued that \$38 million "Morris agreement" between the insureds and an entity they wholly-owned and controlled was not enforceable. *Fidelity Nat. Title Ins. Co. v. Centerpoint Mechanic Lien Claims, LLC*, 238 Ariz. 135 (Ariz. App. 2015).
- Arizona Court of Appeals upheld the Trial Court's dismissal of the case based on a failure to comply with the Arizona Notice of Claim Statute. *Austin v. Peoria Unified Sch. Dist.*, 1 CA-CV 14-0220, 2015 WL 967960 (App. Mar. 5, 2015). [Read full case summary here.](#)
- Memorandum Decision affirming district court's denial of Plaintiff's requests for injunctive relief and motion to appoint an expert. *Benge v. Ryan*, 616 Fed. Appx. 273 (9th Cir. 2015).
- Affirmed trial court's fee award to counsel for personal representative of an estate. *In re Estate of Thompson*, 1 CA-CV 14-0260, 2015 WL 5022866 (Ariz. App. 2015).
- Medical malpractice case holding Rule 59's time limit requires a final, appealable judgment before it starts to run. *Jaynes v. McConnell*, 238 Ariz. 211, 358 P.3d 632 (App. 2015).
- Accepting special action jurisdiction and directing the trial court to enter summary judgment for county manager on qualified immunity grounds in defamation/negligence case. *Pinal County v. Cooper ex rel. County of Maricopa*, 238 Ariz. 346, 360 P.3d 142 (App. 2015).
- Obtained motion for summary judgment in favor of the City of Phoenix invalidating a stipulated judgment against the City for \$8.5 million in a Morris-type of agreement. *Fernandez v. City of Phoenix* (Ariz. 2015). [Read full case summary here.](#)
- Successfully defended law firm sued by an ousted member of LLC attempting to bring a derivative action against LLC's lawyers. *KCI Rest. Mgmt. LLC v. Holm Wright Hyde & Hayes PLC*, 341 P.3d 1156 (Ariz. App. 2014).
- Successfully argued that district court in environmental case failed to independently evaluate whether CERCLA consent decrees were fair, reasonable, and consistent with CERCLA's objectives. *Arizona v. City of Tucson*, 761 F.3d 1005 (9th Cir. 2014).
- Successfully argued that retirement agreement was not a shareholder agreement subject to expiration. *Gries v. Plaza Del Rio Mgmt. Corp.*, 335 P.3d 530 (Ariz. App. 2014).
- Succeeded in workers' compensation appeal holding that income from a horse-care business arose from an independent contractor relationship, precluding inclusion in wage calculation. *Munoz v. Industrial Com'n of Ariz.*, 318 P.3d 439 (Ariz. App. 2014).
- Obtained reversal of capital conviction for failure to disclose Brady evidence concerning a police detective's record of misconduct, *Milke v. Ryan*, 711 F.3d 998 (9th Cir. 2013), then obtained dismissal of capital case on double jeopardy grounds. *Milke v. Mroz*, 339 P.3d 659 (Ariz. App. 2014).
- Won construction appeal holding that homeowners cannot assert claims directly against subcontractors for breach of warranty of workmanship and habitability. *Yanni v. Tucker Plumbing, Inc.*, 312 P.3d 1130 (Ariz. App. 2013).
- Holding trial court properly applied ARS 33-441 to invalidate a CCR provision prohibiting the posting of "for sale" signs that was recorded before 2009, and that the court's order did not violate the contract clauses of the United States or Arizona constitutions. *Hawk v. PC Vill. Ass'n, Inc.*, 233 Ariz. 94, 309 P.3d 918 (App. 2013).
- Defended Governor's and Senate's removal of chairwoman. *Ariz. Indep. Redistricting Comm'n v. Brewer*, 275 P.3d 1267 (Ariz. 2012).
- Obtained dismissal of airline patron's appeal of complaint's dismissal. *Santee v. Mesa Airlines*, 270 P.3d 915 (Ariz. App. 2012).
- Obtained affirmance of dismissal of parents' suit against school district for alleged violation of IDEA. *R.P. v. Prescott Unified Sch. Dist.*, 631 F.3d 1117 (9th Cir. 2011).
- Argued that female detention officer's pat down over male inmate's boxers was not unconstitutional. *Byrd v. Maricopa County Sheriff's Dep't*, 629 F.3d 1135 (9th Cir. 2011).
- Successfully argued for officer's qualified immunity for arresting plaintiff on facially valid but quashed arrest warrant. *Ochser v. Funk*, 266 P.3d 1061 (Ariz. 2011).
- Argued for untimeliness of claim for medical expenses; Supreme Court holds minor owns claim for medical expenses along with parent. *Estate of DeSela v. Prescott Unified Sch. Dist.* 249 P.3d 767 (Ariz. 2011).
- Counsel for Amicus in opinion upholding a defendant hospital and counsel's right to speak informally with a treating physician employed by hospital. *Phoenix Children's Hospital v. Grant*, 265 P.3d 417 (Ariz. App. 2011).
- Won affirmance of summary judgment on statute of limitations grounds. *Best Choice Fund, LLC v. Low & Childers*, 269 P.3d 678 (Ariz. App. 2011)
- Won summary judgment on tribal employees' claim against school district; tribal court lacks jurisdiction. *Red Mesa Unified Sch. Dist. v. Yellowhair*, 2010 WL 3855183 (D. Ariz. 2010).
- Won workers compensation case involving supportive care benefits. *Bank One Corp. v. Indus. Comm'n of Arizona*, 244 P.3d 571 (Ariz. App. 2010).
- Won affirmance of summary judgment for City; officer's early retirement was not a constructive discharge. *Knappenberger v. City of Phoenix*, 566 F.3d 936 (9th Cir. 2009).
- Won appeal establishing that punitive & compensatory damages are unavailable for ADEA retaliation. *Alvarado v. Cajun Op. Co.*, 588 F.3d 1261 (9th Cir. 2009).
- Amicus counsel in notice of claim cases. *Backus v. State*, 203 P.3d 499 (Ariz. 2009), and *Lee v. State*, 182 P.3d 1169 (Ariz. 2008).
- Addressed joint control of a roadway between City & ADOT. *State v. City of Kingman*, 176 P.3d 53 (Ariz. App. 2009).
- Won affirmance of summary judgment for City on immunity grounds in road design case. *Kohl v. City of Phoenix*, 160 P.3d 170 (Ariz. 2007).
- Won affirmance of summary judgment for City on lack of causation grounds; plaintiff argued absence of light at bus stop caused abduction. *Graffiti-Valenzuela v. City of Phoenix*, 167 P.3d 711 (Ariz. App. 2007).
- Counsel for amici counties in case holding that service of notice of claim on one board member insufficient to comply with statute. *Falcon v. Maricopa County*, 144 P.3d 1254 (Ariz. 2006).
- Won affirmance of summary judgment in personal injury action against school employee; New Mexico court applied Arizona's statute of limitations. *Sam v. Estate of Sam*, 134 P.3d 761 (N.M. 2006).

- Amicus counsel for city in case holding that City's non-delegable duty does not negate developer's liability. *Nelson v. Grayhawk Props. L.L.C.*, 104 P.3d 168 (Ariz. App. 2004).
- Won affirmance of summary judgment for City in claim by deaf citizens for changes to 911 system. *Ferguson v. City of Phoenix*, 157 F.3d 668 (9th Cir. 1998).
- Won affirmance of summary judgment for school district in case by high school students' parents for car accident after students left school. *Tollenaar v. Chino Valley Sch. Dist.*, 945 P.2d 1310 (Ariz. App. 1997).
- Won U.S. Supreme Court case invalidating district court's injunction requiring sweeping changes in prison libraries and inmate assistance. *Lewis v. Casey*, 518 U.S. 343 (1996).

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