



## MICHELE MOLINARIO

### PARTNER

Arizona

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#### Areas of Practice:

Corrections Defense

Educational Institutions Defense

Employment Law

General Civil Litigation

Governmental Liability

Insurance Coverage & Third-Party Liability

#### Industries Served:

Education

Government & Public Entities

Insurance

An experienced trial attorney, Michele Molinario 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.

Michele is a longtime member of the firm's Governmental Liability/Employment Trial Group and is on the firm's Management Committee. She has tried both state and federal jury and bench trials and administrative law hearings. In addition to her 20+ years of trial experience, Michele has an impressive record for her motion practice. Michele routinely disposes of the vast majority of her cases through orders of dismissal or summary judgment.

#### Law Enforcement Defense

Michele is committed to defending law enforcement agencies and officers throughout Arizona and New Mexico. She has prevailed on summary judgment in cases involving the uses of force, false arrest, SWAT raid/breaching tactics, K-9 deployment, search and seizure, malicious prosecution, defamation, and negligent hiring. Her 14 years of experience working as a civilian at the Tempe Police Department in the Narcotics and Special Enforcement Unit has afforded her an insider's perspective with the various training exercises related to non-lethal and lethal force incidents, hostage negotiations, K9 deployment, and tactical breaching methods, etc.

#### Correctional Defense

Michele provides correctional defense across the various Arizona and New Mexico jails. Michele has prevailed on summary judgment in cases involving allegations of excessive force, unlawful prison conditions, due process violations, and First Amendment violations. Michele has defended public entities and private prisons in Section 1983 claims that include police-related non-lethal and lethal force incidents, failure to protect incidents, failure to render medical care, and various search and seizure incidents.

#### Employment Law

Michele maintains an active employment law practice defending private and public employers. She has prevailed on summary judgment in cases involving Title VII, FMLA, and discrimination allegations arising under 42 U.S.C.A. Section 1981. Michele has also successfully prosecuted and defended EEOC investigations, wage disputes, FMLA, Title VII, ADA, ADEA, and wrongful termination cases. She has also represented employers and employees before Merit System Boards, AZ POST, fingerprint boards, and other licensing boards in cases involving due process and disciplinary matters.

In addition to employment litigation matters, Michele provides comprehensive consultation services to public and corporate employers navigating issues such as employee disciplinary investigations, sexual harassment investigations, ADA interactive process discussions, FMLA leave, and other daily issues. Michele consults with employers to draft and review their policies and procedures to avoid litigation. In addition, she represents corporate employers bringing lawsuits against former employees for breaches of employment agreements, enforcing non-compete and non-solicitation provisions, and obtaining temporary and permanent injunctions against competitors from using confidential information.

#### Governmental Liability

Michele also defends public entities in cases alleging wrongful death, personal injury, and negligence related to hiring and supervision of employees, roadway design, flooding and building inspections, etc.

Outside of the firm, Michele can be found exploring the Valley's many hiking and walking trails and cheering on the Arizona Cardinals.

## REPRESENTATIVE CASES

- [Quinn v. Cardenas](#), 1 CA-CV 22-0398, 2023 WL 4880442 (App. Aug. 1, 2023) (Opinion holding that when a federal court grants summary judgment and enters a final judgment on those claims, but remands remaining state law claims back to state court, the federal court's final judgment is binding in the remanded state court action under preclusion doctrines (issue and claim preclusion) and as a result, Plaintiff's remaining state law claims in this action were barred by issue preclusion)
- Obtained dismissal of Plaintiff's case that challenged Arizona's civil asset forfeiture statutes. Court of Appeals affirmed the trial court's decision. [Click here](#) to read the full case summary.
- Obtained dismissal of Plaintiff's case that challenged Defendants' policy of complying with federal ICE detainer requests for lack of standing. Court of Appeals affirmed the trial court's decision. [Click here](#) to read the full Court of Appeals' opinion.
- Prevailed on Summary Judgment in roadway design case against Yuma County. The traffic accident occurred at an intersection that the County equipped with oversized two-way STOP signs and flashing warning signs. Plaintiffs sued Yuma County for its alleged negligence 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. [Click here](#) to read the full case summary.
- Prevailed on Summary Judgment Order in Section 1983 civil rights action for false arrest made against a City of Yuma Police Sergeant. Case involved whether probable cause existing to arrest Plaintiff, a former U.S. Border Patrol Agent, and requested return of government-issued property including firearm, badge and credentials. [Click here](#) to read the full case summary.
- Successfully moved for dismissal in an unlawful arrest case against an Arizona County and various County law enforcement officers. Case involved whether service of a Notice of Claim by mail was valid at the officers' workplace. [Click here](#) to read the full case summary.
- Prevailed by Summary Judgment in Section 1983 civil rights action against the City of Yuma and one of its law enforcement officers, involving the use of a TASER CEW to seize Plaintiff while fleeing the scene of a physical disturbance. Plaintiff also brought claims of false arrest, malicious prosecution and assault. The Court found no liability on the part of the City or its officer. [Click here](#) to read the full case summary.
- Prevailed by Summary Judgment in an employment discrimination case against a local County and various County employees. Case involved the lawful and non-discriminatory termination of Plaintiff, a former road maintenance worker, for a violation of the County Merit Rules pertaining to safety-sensitive positions. [Click here](#) to read the full case summary.
- Prevailed by Summary Judgment in a 42 U.S.C. § 1983 civil rights action against the City of Yuma. The net effect of this victory was to save the City of Yuma over \$1.5 Million in potential damages. [Click here](#) to read the full case summary.
- Prevailed by 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. [Click here](#) to read the full case summary.

## CIVIC & COMMUNITY ASSOCIATIONS

- LawForKids.org, Volunteer
- First Round Oplinger Closing Argument Competition at Arizona State University, Judge, 2011

## PROFESSIONAL ASSOCIATIONS & MEMBERSHIPS

- Public Risk Management Association, Arizona Chapter; Member, 2011-Present
- Arizona Association of Defense Counsel, Member
- USLAW Network, Labor & Employment Practice Group Member

## PROFESSIONAL RECOGNITION & AWARDS

- *Best Lawyers in America*®, Municipal Law, 2021-2024; Personal Injury Litigation – Defendants, Litigation – Insurance, 2024

## PRESENTATIONS & PUBLICATIONS

- "Discrimination In The Workplace: When to Worry About Robots And How to Respect The Rights of Transgender Employees," Co-Presenter, Arizona PRIMA SES, July 2023
- "First Amendment Issues in Law Enforcement," Co-Presenter, ACIP Public Practice Legal Seminar and HR Summit, May 2023
- "First Amendment Retaliation in Law Enforcement," Co-Presenter, PRIMA SES, July 2022

- “Responding to Critical Incidents Involving the Mentally Ill: What Every Law Enforcement Agency Needs to Know,” Co-Presenter, PRIMA Institute, June 2022
- [“First Amendment Rights: Civil Unrest & Social Issues on Campus,”](#) Co-Presenter, Community College Risk Management Summit, November 2021
- [“Police Liability in the Court of Public Opinion,”](#) Co-Presenter, PRIMA Institute, October 2021
- [“Police Liability in the Court of Public Opinion,”](#) Co-Presenter, PRIMA Institute, July 2021
- [“Excessive Force Cases: A Deeper Look at the Future of Law Enforcement Policy,”](#) Co-Presenter, 2021 PRIMA Virtual Conference, June 2021
- [“Social Media and the First Amendment: A Practical Guide for Elected Officials Webinar,”](#) Co-Presenter, Elected County Officials, May, 2021
- [“First Amendment Issues in Law Enforcement CLE Webinar,”](#) Co-Presenter, Elected County Officials, May 2021
- [“First Amendment Issues: Do Actions Speak Louder Than Words?,”](#) Co-Presenter, PRIMA Institute Virtual Conference, October 2020
- “Section 1983 Claims: Judgment Call or Judgment Day?,” Co-Presenter, AADC Monthly Advocacy Luncheon, February 2020
- “Police Action: Media Portrayal, Law and Reality,” Co-Presenter, Public Risk Management Association, 2019 PRIMA Institute
- [“First Amendment Issues in Law Enforcement,”](#) Co-Presenter, Arizona Municipal Risk Retention Pool (AMRRP) Seminar, August 2019
- “Police Action: Media Portrayal, Law and Reality,” Co-Presenter, Arizona PRIMA 11th Annual Summer Education Series, August 2019
- “First Amendment Issues In Law Enforcement,” Western States Sheriff’s Association Annual Conference, March 2019
- “What’s Reasonable When Employers Are Asked to Provide Accommodations Under the ADA or PDA?,” USLAW EduNet Webinar, February 2019
- “Police Action: Media Portrayal, Law, & Reality,” Co-Presenter, PRIMA 2018 Annual Conference, June 2018
- “What’s Reasonable When Employers Are Asked to Provide Accommodations Under the ADA or PDA?” Co-Presenter, USLAW NETWORK Employment & Labor Law Exchange, May 2018
- “Jail Issues Potpourri,” Presenter, Twenty-First Annual Public Practice Legal Seminar/HR Summit, May 2018
- [“De-Escalating Public Discord: Evolving Law Enforcement Policy Changes,”](#) Author, Public Risk November – December 2017 Issue, 2017
- “Is Perception Reality OR Is Reality Truly Perceived? Media Coverage and Police Brutality Cases,” Co-Presenter, Prima Annual Conference, June 2017
- “Curve Ahead! How to Minimize Risk and Defend a Road Design Lawsuit,” Co-Presenter, Roads and Streets Conference, April 2017
- “Take Two Aspirin and Call Your HR Director in the Morning! Managing FMLA Leave,” Co-Presenter, Arizona Counties Insurance Pool Webinar, November 2016
- “Anatomy of a Lawsuit” Co-Presenter, PRIMA Summer Education Series, July 2016
- “An Investigative Piece on Clawback Agreements,” Co-Author, *JSH Reporter*, Summer 2016
- “You’re Fired! or ‘Staying Hired?’: The New Peace Officers Bill of Rights,” Presenter, Arizona Counties Insurance Pool 19th Annual Public Practice Legal Seminar, May 2016
- “What’s New Under the Sun? Hot Topics Regarding Notice of Claim,” Presenter, Webinar for Arizona School Risk Retention Trust Community College Risk Management Summit Members, January 2016
- “‘You’re Fired!’ or ‘Staying Hired?’: The New Peace Officers Bill of Rights,” Co-Presenter, Current Issues in Governmental Liability Seminar, November 2015
- “Workers’ Compensation and General Liability Claims Issues,” Co-Presenter, PRIMA Summer Education Series, July 2015
- “An Investigating Piece on Clawback Agreements,” Co-Author, Facts & Findings, July 2015
- “Don’t Let the Jail House Rock: A Look at Recent Legal Trends to Balance Civil Rights and Order,” Co-Presenter, Arizona Jails Association Annual Conference, May 2015
- “Understanding the Police Disciplinary Process,” Presenter, West Valley Cities, March 2015
- “Background Checks: Helping Employers Navigate the Battle Between Negligent Hiring and Discriminatory Hiring Practices,” Presenter, PRIMA Summer Education Series, July 2014
- “Background Checks: Helping Employers Navigate The Battle Between Negligent Hiring and Discriminatory Hiring Practices,” Co-Author, *JSH Reporter*, Summer 2014
- “Social Media in Litigation: Friend or Foe,” Presenter, PRIMA Annual Conference, June 2014
- “Understanding the Police Investigation and Disciplinary Process,” Co-Presenter, Arizona Counties Insurance Pool HR Summit, June 2014
- “What Every Detention Officer Should Know About The Constitution,” Presenter, Arizona Detention Association’s Arizona Jails Annual Conference, May 2014
- “Managing Employment Risk,” Presenter, JSH Seminar, October 2013
- “Defending Police Liability Claims,” Presenter, Arizona Association of Defense Counsel, 2013
- “Good Cop/Bad Cop: Defining The How and When an Officer Should be Terminated,” Presenter, Arizona Public Risk Management Association’s Summer Educational Series, September 2013
- “1983 Claims: Judgment Call or Judgment Day?” Co-Presenter, Arizona Public Risk Association’s Summer Educational Series, September 2013
- “Understanding the Police Investigation and Disciplinary Process,” Presenter, National Business Institute, Handling the Police Liability Claim, May 2013
- “Defending a Police Liability Claim,” Presenter, National Business Institute, Handling the Police Liability Claim, May 2013
- “1983 Claims: Judgment Call or Judgment Day,” Co-Presenter, Arizona Counties Insurance Pool’s 16th Annual Public Practice Legal Seminar, May 2013
- “Handling Personnel Appeals Board Cases,” Co-Presenter, Arizona Counties Insurance Pool’s 16th Annual Public Practice Legal Seminar, May 2013
- “Excessive Force: Judgment Call or Judgment Day,” Co-Presenter, JSH Current Issues in Government Liability Seminar, November 2012

- “Judge’s Panel – A View from the Bench: Trends in the Courtroom During an Economic Downturn,” Moderator, Arizona Public Risk Management Association’s 5th Annual Summer Educational Series, August 2012
- [“Background Checks: Helping Employers Navigate the Battle Between Negligent Hiring and Discriminatory Hiring Practices,”](#) Co-Author, USLAW NETWORK Magazine, Winter/Fall 2012
- “The New R.S. § 38-1104: A Shift Away from a Deferential Review of Police Officer Terminations (Effective July 20, 2011),” Author, JS&H Reporter, Summer 2011
- “Employers Beware: Retaliation Claims are on the Rise,” Presenter, PRIMA Conference, August 2011
- “Employment Law Issues,” Presenter, City of Chandler Employment Liability Seminar, July 2011
- “Res Judicata: When Does it Preclude a Public Employee From Suing a Public Employer?” Author, JSH Reporter, Winter 2011
- “Caregiver Responsibilities: And Employer’s Responsibility to the Caregiver,” Author, USLAW Magazine, Fall/Winter 2009

## **EDUCATION**

Arizona College of Trial Advocacy, 2011

Arizona State University, Sandra Day O’Connor College of Law, J.D., 2000

*Honors with Distinction for Legal Research and Writing*

Arizona State University, University Honors College, B.S., 1996

## **BAR ADMISSIONS**

Arizona, 2000

U.S. District Court, District of Arizona, 2000

U.S. Court of Appeals, Ninth Circuit, 2000

U.S. District Court, District of New Mexico, 2022