

## SUMMARY JUDGMENT GRANTED IN PREMISE LIABILITY AND FRAUDULENT LAND TRANSFER CASE

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*Steven Lane v. State of Arizona, et al* – Jones, Skelton & Hochuli Governmental and

Appellate Group members [John DiCaro](#) and [Justin Ackerman](#) recently obtained summary judgment on a premises liability and fraudulent transfer lawsuit filed against Gavilan Peak, LLC. On November 4, 2013, Steven Lane was seriously injured from an unidentified explosive device while assisting acquaintances move off a piece of property owned by Gavilan Peak, LLC. Unbeknownst to Gavilan Peak, the property was previously the site of explosives manufacturing and military and law enforcement training by its former owner. In 1999, federal and then state government efforts occurred to remediate the Property due to safety concerns. After the state remediation was complete, the Governor's office announced that the remediation was a success, and that "the hazardous materials are gone and the residents are safe." During the sale of the Property, the former owner allegedly told a representative of Gavilan Peak that the property was entirely safe as a result of these remediation efforts.

Mr. Lane's lawsuit alleged that Gavilan Peak breached its duty of care because Gavilan Peak failed to warn him of the dangerous condition of the Property. Gavilan Peak argued, among other things, that given plaintiff's acquaintances undisputed knowledge that the Property was dangerous (by virtue of finding materials on the property that they knew were used to make bombs and booby traps), which they failed to inform Gavilan Peak, that Gavilan Peak's duty to Mr. Lane was released under Restatement (Second) of Torts § 358. In addition, given the utter lack of evidence regarding Mr. Lane's fraudulent transfer claim, Gavilan Peak argued it was entitled to summary judgment.

The Court agreed, adopting Gavilan Peak's argument, dismissing Mr. Lane's premises liability claims under Restatement § 358 and his fraudulent transfer claims for lack of evidence. After the Court's ruling, Plaintiff's remaining claim against Gavilan Peak involving "false light invasion of privacy" was stipulated for dismissal with prejudice.

Partner [John DiCaro](#) concentrates his practice on governmental liability, personal injury, civil rights, and insurance defense. Mr. DiCaro has tried cases for the City of Phoenix, Mesa, several insurance carriers and a number of private clients.

[Justin Ackerman](#) is an Associate in our Appellate Department. After graduating as the Valedictorian of his class from Arizona Summit Law School, Mr. Ackerman worked as a Law Clerk for the Honorable Michael J. Brown in Division One of the Arizona Court of Appeals.