



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**JOHN ACCURSIO V. TREE HOUSE LABS, LLC, et al.
CV-25-0028-PR**

PARTIES:

Petitioner: BB Group, LLC, Justin Brandt and Clark Wu

Respondent: John Accursio

FACTS:

Clark Wu (“Wu”), an Arizona attorney, and his law firm BB Group, LLC (“BBG”) represented one group of parties in litigation. John Accursio (“Accursio”), an out-of-state attorney, along with two Arizona attorneys serving as co-counsel, represented the opposing parties. While the litigation was pending, Accursio accused Wu and BBG of violating the provisions in the Arizona Rules of Professional Conduct concerning conflict of interest. Wu accused Accursio of engaging in the unauthorized practice of law. Brandt represented Wu and BBG with respect to these issues. Accursio and Wu eventually filed bar charges against each other.

The State Bar of Arizona proceeded with a screening investigation concerning the charge against Accursio. The assigned bar counsel notified Accursio of the charge and requested information. Ultimately, the Bar dismissed the charge against Accursio because it determined that it could not prove by clear and convincing evidence that Accursio’s conduct constituted the unauthorized practice of law.

Accursio filed a complaint that included a claim against Wu for wrongful institution of civil proceedings (“WICP”) and a claim against Brandt and BBG for aiding and abetting the WICP. The superior court granted a motion to dismiss the claims against Wu, Brandt and BBG, finding that the bar charge was dismissed after a screening investigation and therefore there was no institution of a civil proceeding.

The court of appeals reversed and remanded the case for further proceedings, finding that Arizona Supreme Court Rules 48(l) and 80(a)(6) merely create a privilege that prohibits claims based solely on the content of the bar charge. It also found that a civil proceeding commenced when the bar charge for the unauthorized practice of law was filed.

ISSUES AS RESTATED BY THE COURT:

1. Under Ariz. R. Sup. Ct. 48(l) and 80(a)(6), can a claim for wrongful institution of civil proceeding be predicated, in whole or in part, on the filing of a bar charge or the statements therein?
2. Under Ariz. R. Sup. Ct. 55 and 78, when does a civil proceeding commence?

**RELEVANT PROVISIONS ARIZONA RULES OF THE SUPREME COURT 42,
ARIZONA RULES OF PROFESSIONAL CONDUCT:**

Arizona Rule of the Supreme Court 48(l) provides as follows:

Immunity from Civil Suit. Communications to the court, state bar, committee, presiding disciplinary judge, acting presiding disciplinary judge, hearing panel members, settlement officers, mediators, the client protection fund, the peer review committee, the fee arbitration program, the committee on the Rules of Professional Conduct, participants in an approved ember assistance program, including those seeking assistance and those seeking to provide assistance, participants or staff of a State Bar law office or practice management assistance programs, state bar staff relating to lawyer misconduct, lack of professionalism or disability, and testimony given in the proceedings shall be absolutely privileged conduct, and no civil action predicated thereon may be instituted against any complainant or witness.

Arizona Rule of the Supreme Court 80(a)(6) provides as follows:

Immunity from Civil Suit. Communications to the court, state bar, bar counsel, unauthorized practice of law counsel, volunteer bar counsel, or investigators relating to alleged unauthorized practice of law, and testimony given in the proceedings shall be absolutely privileged conduct, and no civil action predicated thereon may be instituted against any complainant or witness.

Arizona Rule of the Supreme Court provides as follows:

- (a) **Commencement; Determination to Proceed.** Bar counsel shall evaluate all information coming to its attention, in any form, by charge or otherwise, alleging unprofessional conduct, misconduct, or incapacity.
- (b) **Screening Investigation and Recommendation by Bar Counsel.** When a determination is made to proceed with a screening investigation, the investigation shall be conducted or supervised by bar counsel. Bar counsel shall give the respondent written notice that the respondent is under investigation and of the nature of the allegations. No disposition adverse to the respondent shall be recommended by bar counsel until the respondent has been afforded an opportunity to respond in writing to the charge.

Arizona Rule of the Supreme Court provides as follows:

Commencement. An unauthorized practice of law proceeding commences upon receipt by the state bar of a charge against a respondent. An unauthorized practice of law proceeding shall be disposed of by dismissal or by the filing of a consent agreement or complaint in the superior court seeking imposition of one or more sanctions as provided in these rules.

This Summary was prepared by the Arizona Supreme Court Staff Attorneys' Office solely for educational purposes. It should not be considered official commentary by the Court or any member thereof or part of any brief, memorandum, or other pleading filed in this case.