



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**LEGACY FOUNDATION ACTION FUND v. CITIZENS CLEAN
ELECTION COMMISSION
Case no. CV-22-0041-PR**

PARTIES:

Petitioner: Legacy Foundation Action Fund (“Legacy”)

Respondents: Citizens Clean Elections Commission (“Commission”)

FACTS:

In 2014, Legacy, a non-profit corporation, aired political advertisements in Arizona. The Commission, an administrative agency, then received a complaint alleging that Legacy had violated the Citizens Clean Elections Act (the “Act”), A.R.S. §§ 16–940 to –961. The Commission believed that Legacy had violated the Act’s independent reporting requirements and assessed Legacy \$95,460 in civil penalties after holding a hearing. Legacy sought administrative review arguing in part that the Commission lacked subject-matter jurisdiction to assess the penalty. The Commission rejected that argument and, in March 2015, entered a final administrative order imposing the penalties.

Eighteen days after the Commission issued its final administrative order, Legacy attempted to appeal, arguing that the Commission lacked personal and subject-matter jurisdiction. The trial court dismissed the appeal, concluding that it lacked jurisdiction because Legacy missed the 14-day deadline to appeal under A.R.S. § 16–957(B). Legacy appealed this dismissal, and the court of appeals and the Court upheld the dismissal of the appeal. *Legacy Found. Action Fund v. Citizens Clean Elections Comm’n*, 243 Ariz. 404 (2018). In so doing, the Court left open the question of whether the agency decision was subject to collateral attack.

The Commission brought an enforcement action in superior court to collect the penalty, Legacy filed a special action in superior court alleging in part that the Commission lacked subject-matter jurisdiction over the matter, and the superior court consolidated the two cases. The superior court dismissed Legacy’s special-action complaint and granted summary judgment for the Commission. Legacy timely appealed.

On appeal, a majority of the court of appeals affirmed, concluding that Legacy’s challenge was barred. The majority found that, because Legacy had a meaningful opportunity to contest the proceedings, the “modern” approach articulated in the Restatement of Judgments § 12 applies because “[T]he need for finality forbids a court called upon to enforce a final order to ‘tunnel back ... for the purpose of reassessing prior jurisdiction de novo.’” The dissent disagreed and argued that Arizona only looks to the Restatement if there is no existing case law. The dissent further contended that lack of subject matter or personal jurisdiction is always subject to challenge, and “Thus, the

result disregards the danger of administrative overreach when an agency is allowed to determine for itself the extent of its jurisdictional power.”

ISSUE: The Court granted review as to this rephrased issue:

“Whether the majority erred in adopting the Restatement (Second) of Judgments § 12 to bar a challenge to the Commission’s jurisdiction where Legacy actively opposed the Commission’s imposition of a penalty but did not pursue a timely appeal?”

RESTATEMENT (SECOND) OF JUDGMENTS:

§ 12 Contesting Subject Matter Jurisdiction

When a court has rendered a judgment in a contested action, the judgment precludes the parties from litigating the question of the court's subject matter jurisdiction in subsequent litigation except if:

- (1) The subject matter of the action was so plainly beyond the court's jurisdiction that its entertaining the action was a manifest abuse of authority; or
- (2) Allowing the judgment to stand would substantially infringe the authority of another tribunal or agency of government; or
- (3) The judgment was rendered by a court lacking capability to make an adequately informed determination of a question concerning its own jurisdiction and as a matter of procedural fairness the party seeking to avoid the judgment should have opportunity belatedly to attack the court's subject matter jurisdiction.

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.