



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**The Butler Law Firm, P.L.C. v. Hon. Robert J. Higgins,  
CV-17-0119-PR**

**PARTIES:**

*Petitioner:* The Butler Law Firm, Everett S. Butler, and Matthew D. Williams

*Respondent:* Winslow Memorial Hospital, Inc. d/b/a Little Colorado Medical Center  
(the “Hospital”)

**FACTS:**

In 2003, the Hospital entered into a management agreement with Northern Arizona Healthcare (“NAH”) pursuant to which NAH served as the employer for the Hospital’s CEO, Jeffrey Hamblen (“Hamblen”). As initially drafted, the employment agreement between NAH and Hamblen (the “first employment agreement”) stated that if Hamblen was not employed by either the Hospital or NAH when the management agreement between them terminated, then NAH would owe Hamblen severance pay. In 2007, the Hospital and NAH amended the first employment agreement to require the Hospital to reimburse NAH for any severance payments NAH made to Hamblen after the management agreement between NAH and the Hospital ended (the “2007 Amendment”).

In February 2013, NAH notified the Hospital that NAH would be terminating the management agreement. The Hospital then retained the Butler Firm to provide a legal opinion regarding the Hospital’s obligation to pay severance to Hamblen. The Butler Firm was never provided a copy of the 2007 Amendment. As a result, the Firm issued an erroneous legal opinion concluding that the Hospital would not be obligated to pay severance, either directly to Hamblen or as reimbursement to NAH.

The Hospital also retained the Butler Firm to represent it in negotiating an employment contract directly with Hamblen. According to the complaint, while the Firm was representing the Hospital, and without Hospital representatives’ consent, Butler and Williams communicated directly with Hamblen regarding the terms of the employment agreement. The complaint alleges that the attorneys drafted the agreement to include several items from Hamblen’s “wish list,” contrary to the Hospital’s interests. In August 2013, the Hospital and Hamblen signed the new employment agreement (the “second employment agreement”).

In early 2014, the Hospital learned that Hamblen was receiving severance payments from NAH pursuant to the first employment agreement, and that, pursuant to the 2007 Amendment, the Hospital was obligated to reimburse NAH for those payments. The Hospital put Hamblen on administrative leave. Hamblen then quit.

Hamblen filed an arbitration action seeking severance pay. At the same time, the Hospital sued Hamblen in superior court, asserting an unjust enrichment claim. The arbitrator found that the second employment agreement should be rescinded entirely due to Hamblen's fraud; the superior court confirmed the arbitration award and allowed the Hospital to pursue its counterclaim for unjust enrichment against Hamblen.

In January 2016, the Hospital filed the complaint in this case in Navajo County against the Firm and against Butler and Williams personally. The suit alleges malpractice, breach of fiduciary duty, and breach of the covenant of good faith and fair dealing arising from the negotiation of the second employment agreement.

Butler and Williams reside in Maricopa County; the Firm is also located in Maricopa County. The Hospital's principal place of business is in Navajo County. After the Hospital filed suit in Navajo County, the Firm filed a Motion for Transfer of Venue Pursuant to A.R.S. § 12-404(A), seeking to transfer the case to Maricopa County Superior Court.

The trial court found that venue in Navajo County was proper against the Firm and against Butler and Williams personally. The trial ruled that venue in Navajo County was proper because the Firm, as a limited liability company, qualified as an "other corporation" under A.R.S. § 12-401(18). The court also found venue proper because the Firm "did business in Navajo County, the contract was for services in Navajo County, any alleged damages were in Navajo County, [and] the fees paid to the Defendants were from Navajo County." Further, the court held that venue was proper under A.R.S. § 12-401(5) because the "place of performance of the contract," could be "implied by the contract terms (here, Navajo County since the plaintiff exclusively contracted business in Navajo County in this case.)" The trial court thus denied the motion to transfer.

The Firm filed a petition for special action in the court of appeals, which declined to exercise jurisdiction. This petition for review followed.

**ISSUES:**

1. Whether a limited liability company constitutes an "other corporation[]" for purposes of the venue exception in A.R.S. section 12-401(18).
2. Whether a law firm's fee agreement may constitute a contract "in writing to perform an obligation in one county" binding against the partners of such firm so as to subject them to the venue exception in A.R.S. section 12-401(5).

**STATUTE:**

The relevant portions of the venue statute, Arizona Revised Statute § 12-401, provide:

No person shall be sued out of the county in which such person resides, except:

....

5. Persons who have contracted in writing to perform an obligation in one county may be

sued in such county or where they reside.

....

18. Actions against railroad companies, insurance companies, telegraph or telephone companies, joint stock companies and other corporations may be brought in any county in which the cause of action, or a part thereof, arose, or in the county in which defendant has an agent or representative, owns property or conducts any business.

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