



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**RAE ANN RUMERY, ET AL. v. MARIA BAIER  
CV-11-0358-PR**

**PARTIES:**

*Petitioner:* Maria Baier (“Commissioner”), in her capacity as Arizona State Land Commissioner

*Respondents:* Rae Ann Rumery, John Skarhus, and Cartwright Elementary School District (“Plaintiffs”)

**FACTS:**

In 1910, Congress granted Arizona over 10.7 million acres of land to be held in trust for enumerated beneficiaries, with the “common schools” being the largest.<sup>1</sup> It set forth rules governing the use of the trust lands in the New Mexico-Arizona Enabling Act of June 20, 1910, 36 Stat. 557. The Arizona electorate accepted the land grants by ratifying article 10, section 1, of the Arizona Constitution in 1911, and the provisions of the Enabling Act became part of the organic law of this state. However, the Enabling Act and the Arizona Constitution are silent as to how the costs of managing the trust lands are to be paid.

Prior to 2009, the legislature paid the administrative expenses of managing state trust lands from the state general fund. Proceeds derived from state trust lands were distributed to the individual funds (called permanent funds) of the enumerated beneficiaries to be held in trust by the Commissioner. Ariz. Const. art. 10, § 7(A).

In 2009, the legislature adopted A.R.S. § 37-527, which set up the Trust Land Management Fund (“Management Fund”). Section 37-527 provides that up to ten percent of both the annual proceeds from “[e]ach beneficiary’s trust lands” and “[a]ll sales of timber, mineral, gravel or other natural products or property from each beneficiary’s trust lands” are to be deposited into the Management Fund “exclusively to manage trust lands.” The money in the Management Fund is appropriated to the Arizona State Land Department, the agency that manages the trust lands. A.R.S. § 37-102 (Supp. 2010). The Commissioner administers the Management Fund. A.R.S. § 37-527(D). Section 37-527(F) provides that it “does not prevent the legislature from appropriating state general fund monies for the purposes” of paying for the costs to manage the trust lands.

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<sup>1</sup> The enumerated beneficiaries of the state trust land are the universities; asylums and a school for the hearing, visually, and cognitively impaired; normal schools; an agricultural and mechanical college; school of mines; legislative, executive, and judicial public buildings; penitentiaries; “insane asylums”; hospitals for disabled miners; state charitable, penal, and reformatory institutions; military institutes; and Maricopa, Pima, Yavapai, and Coconino counties for payment of bonds. The Arizona Constitution set up a permanent fund for each beneficiary. Ariz. Const. art. 10, § 7(A); *see also* A.R.S. §§ 37-521 to -525 (Supp. 2010).

The legislature also appropriated over \$9.7 million in fiscal year 2010 from proceeds derived from trust land, thereby diverting some money from entering the trust into the Management Fund. For fiscal year 2011, the Commissioner designated the full ten percent of funds allowed by A.R.S. § 37-527, about \$10.5 million, for deposit in the Management Fund.

Plaintiffs filed suit, alleging the legislature violated section 28 of the Enabling Act (regulating the deposit of proceeds derived from state trust lands); article 10, section 7, of the Arizona Constitution (same); and the voter-protection provisions of the Arizona Constitution.

Plaintiffs and the Commissioner filed motions for summary judgment. The trial court granted Plaintiffs' motion, holding that A.R.S. § 37-527 violated article 10, section 7, as well as article 4, part 1, section 1(6)(D), of the Arizona Constitution. In so holding, the court rejected the Commissioner's argument that common-law principles of trust law apply. The court held that "the language of Art. 10 § 7 is clear and unambiguous," and thus resorting "to [common-law] principles to modify or clarify the language is contrary to established Arizona law." It also held the "appropriation of proceeds from state trust lands for trust administrative expenses clearly diverts money from the permanent state school fund specified in [A.R.S.] § 37-521," and the legislature's doing so without a three-quarters vote violated the voter-protection provisions. The court did not address whether the law violated the Enabling Act.

The trial court enjoined the Commissioner "from designating any amount of state trust land proceeds for deposit" into the Management Fund, ordered the state treasurer to "deposit all state trust land proceeds into the appropriate permanent funds," and ordered the Commissioner to repay "all amounts previously transferred from state trust land proceeds to the Trust Land Management Fund, whether expended or not," for deposit into the separate permanent funds. The court also awarded Plaintiffs their attorneys' fees and costs and denied the Commissioner's motion to stay injunctive relief pending appeal. The Commissioner timely appealed.

In a 29-page opinion, the court of appeals affirmed the trial court's decision "that A.R.S. § 37-527 violated Article 10, Section 7, of the Arizona Constitution because the 'appropriation of proceeds from state trust lands for trust administrative expenses clearly diverts money from the permanent state school fund specified in [A.R.S.] § 37-521.'" Op. ¶ 1. According to the court, "[i]f the legislature wishes to fund the management of state trust lands from proceeds of the trust, it should refer a proposition to Arizona's voters as it has done in the past when it both successfully and unsuccessfully sought to change how state trust lands were managed, used, or invested." Op. ¶ 26. The Commissioner sought review of this opinion.

#### **ISSUE PRESENTED FOR REVIEW:**

Does the Arizona Constitution prohibit the Arizona Legislature from funding management of the state trust lands from proceeds of the state trust lands?

*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.*