

SHOCK AND AWE: VIDEOS IN PERSONAL INJURY AND WRONGFUL DEATH CASES ("DOES THIS *REALLY* HELP MY CASE?")

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9375 E. Shea Boulevard, Suite 100
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A.R.S. § 13-807. Civil actions by victims or other persons

A defendant who is convicted in a criminal proceeding **is precluded from subsequently denying in any civil proceeding brought by the victim or this state against the criminal defendant the essential allegations of the criminal offense** of which he was adjudged guilty, including judgments of guilt resulting from no contest pleas. An order of restitution in favor of a person does not preclude that person from bringing a separate civil action and proving in that action damages in excess of the amount of the restitution order that is actually paid.

A.R.S. § 12-2505. Comparative negligence; definition

A. The defense of contributory negligence or of assumption of risk is in all cases a question of fact and shall at all times be left to the jury. If the jury applies either defense, the claimant's action is not barred, but **the full damages shall be reduced in proportion to the relative degree of the claimant's fault which is a proximate cause of the injury or death**, if any. There is no right to comparative negligence in favor of any claimant who has intentionally, wilfully or wantonly caused or contributed to the injury or wrongful death.

Excessive use of force in self-defense: an act of negligence? *Transamerica Insurance Group v. Meere*, 143 Ariz. 351, 694 P.2d 181 (1984); *Fire Ins. Exchange v. Berray*, 143 Ariz. 361, 694 P.2d 191 (1984)

Parental Liability for Intentional Torts of Minor Children: A.R.S. § 12-661

A. Any act of **malicious or wilful misconduct** of a minor which results in any injury to the person or property of another, to include theft or shoplifting, **shall be imputed to the parents or legal guardian** having custody or control of the minor **whether or not such parents or guardian could have anticipated** the misconduct for all purposes of civil damages, and such parents or guardian having custody or control shall be **jointly and severally liable with such minor** for any actual damages resulting from such malicious or wilful misconduct.

B. The joint and several liability of one or both parents or legal guardian having custody or control of a minor under this section **shall not exceed ten thousand dollars for each tort of the minor**. The **liability imposed by this section is in addition to any liability** otherwise imposed by law.

C. Notwithstanding any law to the contrary, **nothing in this section limits the right of an insurer to exclude coverage** for the acts of a minor imputed to his parent or legal guardian pursuant to this section.

A.R.S. § 12-711. Affirmative defense; limitation

In any civil action, the finder of fact **may find the defendant not liable** if the defendant proves that the claimant or, if the claimant is an heir or the estate of a deceased person, **the decedent was under the influence of an intoxicating liquor** or a drug and as a result of that influence **the claimant or decedent was at least fifty per cent responsible** for the accident or event that caused the claimant's or decedent's harm.

Left turn statute: A.R.S. § 28-772. Vehicle turning left at intersection

The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to a vehicle that is approaching from the opposite direction and that is within the intersection or so close to the intersection as to constitute an immediate hazard.

Short statutes of limitation (*a.k.a. "So that's why it's abbreviated SOL"*)

A.R.S. § 12-821.01: Notice of claim against public entity, public school or public employee (180 days after cause of action accrues);

A.R.S. § 12-821: Action against public entity or public employee (one year after cause of action accrues).

PREMISES LIABILITY 1 Notice of Unreasonably Dangerous Condition

As the owner of a business, defendant is **required to use reasonable care to warn of or [safeguard] [remedy] an unreasonably dangerous condition of which defendant had notice.** Plaintiff claims that defendant had notice of the unreasonably dangerous condition that caused harm to Plaintiff. Defendant had notice of the unreasonably dangerous condition if you find any of the following: 1. Defendant or its employees **created the condition**; or 2. Defendant or its employees **actually knew of the condition in time to provide a remedy or warning**; or 3. The condition existed for a sufficient length of time that Defendant or its employees, **in the exercise of reasonable care, should have known of it.** If you find that Defendant had notice of the unreasonably dangerous condition and failed to use reasonable care to prevent harm under the circumstances, then Defendant was negligent.