

# **Bond Case Briefs**

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## **STATUTE OF LIMITATIONS - ARIZONA**

### **Cook v. Town of Pinetop-Lakeside**

**Court of Appeals of Arizona, Division 1, Department D - May 28, 2013 - P.3d - 2013 WL 2363132**

In 2001, Cook asked the Town to abandon to him part of a public right-of-way adjacent to his property. The Town council agreed and passed a resolution that abandoned the property to Cook.

In 2007, Cook's neighbor, Cletis Heffel, filed a notice of claim and complaint against the Town. Heffel asserted that the 2001 abandonment had caused his property to become landlocked. The Town council held two public meetings to discuss how to resolve the property dispute. Cook was present and spoke at both meetings. At the second meeting, the Town council voted to rescind the 2001 abandonment.

In February 2009, Cook brought a quiet title action against the Town and Heffel. The Town answered and filed a counter-claim seeking a declaratory judgment. The court granted the Town summary judgment, finding that because Cook was present when the Town council rescinded the abandonment, he had actual knowledge of the Town's actions. The court concluded, therefore, that the litigation against the Town is time barred by A.R.S. 12-821.

The court of appeals reversed, holding that the statute of limitations does not run against a plaintiff in possession who brings a quiet title action purely to remove a cloud on the title to his property. Because Cook's claim against the Town for quiet title did not accrue for statute of limitations purposes, his claim is not barred by the one-year limitation period established by A.R.S. § 12-821.