

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2014-009068  
Consolidated

08/07/2015

HONORABLE J. RICHARD GAMA

CLERK OF THE COURT  
M. Corriveau  
Deputy

KYLIE STEINMETZ, et al.

CRAIG A KNAPP

v.

STATE OF ARIZONA, et al.

BROCK J HEATHCOTTE

MICHAEL L PARRISH

MINUTE ENTRY

The Court has had under advisement Defendants' Motion to Dismiss (re. *McKee*, CV 2014-009070).<sup>1</sup> Having read and considered the briefing and having heard oral argument, the Court issues the following rulings.

**I. ASFD.**

The ASFD argues that it should be dismissed because it is a nonjural entity. Whether the ASFD is a jural entity is a threshold issue of this Court's jurisdiction. *Cf. Yamamoto v. Santa Cruz Cnty. Bd. of Supervisors*, 124 Ariz. 538, 539 (App. 1979) (court has no jurisdiction over party that is not legally capable of being sued).

A governmental entity has no inherent power and possesses only those powers and duties delegated to it by its enabling statutes. *Brailard v. Maricopa Cnty.*, 224 Ariz. 481, 487 (App. 2010); *Schwartz v. Super. Ct.*, 186 Ariz. 617, 619 (App. 1996) (powers of state administrative

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<sup>1</sup> "Defendants" collectively references the State of Arizona ("State") and the Arizona State Forestry Division ("ASFD").

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agency limited to those granted by statute); *see also Facilitec, Inc. v. Hibbs*, 206 Ariz. 486, 488 (2003); *Cox v. Pima Cnty. Law Enforcement Merit Sys. Council*, 27 Ariz. App. 494, 495 (1976). Thus, a governmental entity may sue or be sued “only if the legislature has so provided.” *Braillard, id.* (dismissing Maricopa County Sheriff’s Office as a nonjural entity); *see also Kimball v. Shofstall*, 17 Ariz. App. 11, 13 (1972) (Arizona State Board of Education not an autonomous body with right to sue and be sued).

Plaintiff has not pointed to an enabling statute that allows the ASFD to sue or be sued.<sup>2</sup> As such, the Court finds that the ASFD is not a jural entity. Accordingly,

**IT IS ORDERED** dismissing this action as to the ASFD for lack of jurisdiction.

**II. State.**

Plaintiff is the mother of Grant McKee (“McKee”), a firefighter who died while fighting the Yarnell Hill Fire. She brings claims against the State for wrongful death and emotional distress. The State argues that these claims should be dismissed. The Court agrees with the State, for the reasons stated in the Motion (at 3-13) and Reply (at 2-10). Accordingly,

**IT IS FURTHER ORDERED** granting the State’s Motion to Dismiss with prejudice.

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<sup>2</sup> *See Resp. at 13 and compare with* A.R.S. §§ 38-714(A) (Arizona State Retirement System), 30-102(B) (Arizona Power Authority), *and* 41-2253(A) (Greater Arizona Development Authority).