

Flynn v. Campbell

Citation: No. CV-16-0199-PR, 2017 WL 4183422 (Ariz. Sept. 22, 2017).

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Author: Justice Lopez

Joined by: Chief Justice Bales, Vice Chief Justice Pelander, Justices Brutinel, Timmer, Bolick, and Gould.

Facts: On October 17, 2012, Diane Flynn and Sarah Campbell were in a car accident. Flynn was injured. At the accident scene a police officer provided Flynn with a crash report that identified Campbell's insurance carrier as State Farm Mutual Automobile Insurance Company ("State Farm"). The report also provided Campbell's policy number and the contact information for the insurer. Flynn later contacted State Farm to report the accident.

On October 16, 2014, one day before the statute of limitations expired, Flynn sued State Farm pro se. Flynn's complaint alleged that, "State Farm's insured caused the collision by 'recklessness, carelessness, and negligence,' that State Farm had 'assumed full responsibility for its insured's actions,' and that it had 'intentionally delayed, postponed, or otherwise disregarded the resolution of this matter; at times providing false information to [Flynn].'" Flynn claimed \$37,500 in compensatory damages and requested \$200,000 in punitive damages. State Farm moved to dismiss the complaint asserting that Flynn did not provide a cause of action. In Arizona, "there is no right of direct action against an insurance carrier for damages claimed as a result of an accident with one of its insureds."¹

However, before the superior court ruled on the motion Flynn hired an attorney and amended her complaint. The amended complaint removed State Farm as defendant, named Campbell as defendant (along with other fictitious parties), and alleged negligence. Campbell then moved to dismiss the amended complaint arguing it did "not 'relate back' under Rule 15(c) and was therefore time barred."

Procedural history: The case is currently before the Arizona Supreme Court. The superior court found that Flynn knew the identity of the driver and therefore committed a mistake of law, not of fact in deciding to sue State Farm instead of Campbell. Consequently, the superior court dismissed the amended complaint. The court of appeals held Flynn's mistake regarding the identity of the proper party was "cognizable under Rule 15(c)" and reversed the superior court's dismissal.

The Arizona Supreme Court granted review regarding the standard for allowing "relation back" of pleadings under Rule 15(c).

Issue: For an amended complaint to relate back under Rule 15(c) the party to be joined by amendment must know or should know that, "but for a mistake concerning the identity of the proper party, the action would have been brought against that party." ARIZ. R. CIV. PRO.

¹ Flynn v. Campbell, No. CV-16-0199-PR, 2017 WL 4183422, at *1 (Ariz. Sept. 22, 2017).

15(c)(2)(B)(ii). Is a decision to sue one party instead of another a cognizable mistake under Rule 15(c)? Does Rule 15(c) differentiate between mistakes of fact and mistakes of law?

Holding: Yes, the mistake to sue one party instead of another is a cognizable Rule 15(c) mistake. No, Rule 15(c) does not distinguish between mistakes of law and mistakes of fact.

Disposition: The court of appeals' decision is vacated and the superior court's order is reversed. The case is remanded to the superior court for further proceedings consistent with this opinion.

Rule: The decision to sue one party instead of another is a cognizable Rule 15(c) mistake when the mistake regarding the proper party results from a lack of knowledge rather than a deliberate strategic decision.

Reasoning:

- **Rule 15(c) Factors:** To relate back under Rule 15(c) the amended complaint must meet the following conditions: “(1) the claim in the amended pleading ‘arose out of the conduct, transaction, or occurrence’ of the original pleading; (2) the party to be joined by amendment received notice of the action within the applicable limitations period plus the time for the service of the summons and original complaint; (3) the notice is sufficient to avoid prejudicing the joined defendant’s ability to defend on the merits; and (4) within that same period, the party to be joined by amendment ‘knew or should have known that, but for a mistake concerning the identity of the proper party,’ plaintiff would have named the proper party in the original complaint.”² Here, only the fourth condition is at issue.
- **Interpretation of Procedural Rules:** The court began its discussion section with an overview of how the court interprets rules of procedure. The court first noted that the Arizona rule at issue was modeled after the federal rule and explained “uniformity in interpretation of our rules and the federal rules is highly desirable.”³ Because there are no significant differences between the Arizona Rule and its federal counterpart the court found the federal court’s interpretation of the rule persuasive.⁴ The court also discussed the intent to interpret procedural rules to “maximize the likelihood of a decision on the merits.”⁵ Moreover, the court noted the purpose of Rule 15(c) is to balance this preference to resolve disputes on the merits with the defendant’s legitimate interests protected by statutes of limitations.⁶

² *Id.* at *3.

³ *Id.* at *2.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

- Rule 15 (c)(2) Approach:** The court then resolved the conflict between the Arizona and Federal approaches to Rule 15(c). The Arizona approach, reflected in *Tyman*,⁷ focused its Rule 15(c) analysis on the plaintiff. In contrast, the federal approach, reflected in *Krupski*,⁸ focused on the defendant. The court found the federal approach to be more consistent with the text and purpose of the rule, and adopted the federal approach to Rule 15(c) analyses—overruling the plaintiff focused approach in *Tyman*.⁹ Under the new defendant focused approach the question becomes “whether the defendant knew or should have known that, absent some mistake, the action would have been brought against him or her.”¹⁰ The court also adopted the federal view that Rule 15(c) does not distinguish between mistakes of fact or law.¹¹ The court stated, “if [the mistake] is not ‘a deliberate choice to sue one party instead of another while fully understanding the factual and legal differences between the two parties’” then the mistake, factual or legal, is cognizable under Rule 15(c).¹²
- Defendant’s Knowledge:** The court began its analysis by determining whether Campbell knew or should have known that Flynn would have named her as the defendant but for her mistake regarding the proper party. The standard for determining if a Rule 15(c) mistake exists is whether the “plaintiff with accurate and complete knowledge regarding the role and liability of the proper party would have brought the action against that party.”¹³ The court further explained a plaintiff’s confusion concerning a party’s role in the transaction giving rise to the claim constitutes a cognizable mistake—the reasonableness of the mistake is not at issue.¹⁴ Here, the court held that Campbell could not reasonably claim she was unaware that Flynn’s decision to sue State Farm was a mistake.¹⁵ The court reasoned that Flynn’s mistake regarding the proper party was evident in her original complaint because she alleged State Farm had “assumed full responsibility” and sought compensatory damages for injuries caused by Campbell.¹⁶ Because Campbell could not reasonably believe Flynn strategically decided to sue State Farm, an entity that was legally unable to provide relief, she should have known Flynn would have named her as the defendant but for her mistake.¹⁷
- Mistake Concerning Proper Party:** The court then considered whether Flynn’s decision to sue State Farm instead of Campbell was a cognizable mistake under Rule 15(c). The court held Flynn’s decision was a cognizable mistake because it was the

⁷ *Tyman v. Hintz Concrete, Inc.*, 148 P.3d 1146, 1149 (Ariz. 2006) (“[W]hat the plaintiff knew (or thought he knew) at the time of the original pleading generally is the relevant datum in respect to the question of whether a mistake concerning identity actually took place.”).

⁸ *Krupski v. Costa Crociere*, 560 U.S. 538, 548 (2010).

⁹ *Flynn*, 2017 WL 4183422, at *3.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at *4.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

result of inadequate knowledge, rather than a strategic maneuver.¹⁸ The court reasoned where a party makes a choice to sue one party instead of another for the purpose of gaining a litigation advantage there is no cognizable mistake.¹⁹ However, where a party's decision to sue one party instead of another results from "faulty judgment, inadequate knowledge or inattention" there may be a cognizable mistake.²⁰ Based on the nature of claims in Flynn's original complaint the court reasoned that Flynn clearly misunderstood State Farm's role—and a mistaken belief that a defendant is liable constitutes a Rule 15(c) mistake.²¹

- **Pro Se:** Lastly, the court addressed Campbell's argument that considering a plaintiff's pro se status in a Rule 15(c) analysis would "nullify the statute of limitations for unrepresented parties and create two different relation back standards."²² The court rejected this argument. The court reasoned that pro se plaintiffs are held to the same standard as attorneys.²³ Therefore, courts may not provide special leniency to pro se litigants in a Rule 15(c) analysis.²⁴ However, the court also noted that a plaintiff's pro se status may be relevant to assess whether the party made a deliberate strategic decision or a genuine mistake regarding the identity of the proper party.²⁵ The court reasoned this standard for determining a cognizable mistake appropriately balances the defendant's interests protected by statute of limitations and the court's strong preference to resolve disputes on the merits.²⁶

¹⁸ *Id.* at *5.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* at *6.

²⁶ *Id.*