

**Advanced Legal Research  
Project 2 – State – Sample Answer**

**Project Name:** \_\_\_\_\_

**Client Number:** \_\_\_\_\_

**Issue One – Arizona law on recovery for emotional distress and loss of companionship for the death of a pet (30 points)**

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**Preliminary Analysis**

**Legal Issues:**

Whether Arizona law permits recovery for emotional distress and loss of companionship for death of a pet left in a groomer's care?

**Relevant Facts:**

Dog in vet's care, vet not paying attention, dog escapes, apparently killed by coyotes

**Jurisdiction:**

Arizona, Pima County

**Key Terms:**

"emotional distress", "loss of companionship", animal, dog, negligence

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**1. Secondary Sources**

- A. **Article/source name(s) and citation(s):** (Note: Find the most useful secondary source that you can. List no more than one source unless your additional sources have new information.)

Several sources may be helpful, but the best probably is: Recovery of Damages for Emotional Distress Due to Treatment of Pets and Animals, 91 A.L.R.5th 545 (Originally published in 2001)

- B. **How did you locate each source and how is it useful?**

Keyword or natural language search should turn this up. ALR is very helpful because it addresses the topic of the research and has Arizona cases and statute

- C. **Relevant code section(s) cited in article/source.** (Briefly summarize how it is relevant.)

- ARS 1-215(25) (now at ARS 1-215(30))—defines dog as personal property; unlikely to collect these type of damages for loss of personal property

**D. Relevant cases cited in article/source.** (Briefly summarize how it is relevant.)

- Roman v. Carroll, 127 Ariz. 398, 621 P.2d 307 (Ct. App. 1980)—damages for negligent infliction of emotional distress for witnessing injury to dog (as property) not recoverable
- Kaufman v. Langhofer, 222 P.3d 272 (Ariz. Ct. App 2009)—no recovery for emotional distress or loss of companionship for animal negligently killed or injured; no recovery where veterinarian “did not directly harm owner by affecting or burdening personal right or interest belonging to him.”

**2. Statutes:**

**A. Useful index or search terms:**

Easiest way to find statute is from secondary source or reference in case; very hard to find with index or keyword search unless you have thought of issue of animal/dog as being personal property

**B. Relevant code section(s).** [If none, write none]

- ARS 1-215(30)—defines dog as personal property; unlikely to collect these type of damages for loss of personal property

**C. Relevant Topic/Key Number(s) in annotations.** (Briefly summarize how it is relevant.) [If none, write none]

- From Kaufman v. Langhofer—Topic/Key Numbers—Animals(28) 1.5(1)—animals as property; Damages(115) 113—injuries to personal property

**D. Relevant cases in annotations.** (Briefly summarize how it is relevant.) [If none, write none]

- Kaufman (if not mentioned above)—dogs are personal property and only recovery is market value

**E. Update relevant code section(s).**

- Green C for citing references

**F. Brief summary of relevant code section(s).** (1 - 2 sentences.)

- ARS 1-215(30) includes dog in the definition of personal property.

### 3. Relevant Cases:

**A. List any additional relevant cases and Topic/Key Numbers you found reading the cases listed in 1D and 2D above.** (Briefly summarize how it is relevant.) [If none, write none]

- From Roman v. Carroll—
  - Topic/Key Numbers—Damages(115) 57.38—injury to pets and other animals;
- From Kaufman v. Langhofer—
  - Topic/Key Numbers—Animals(28) 1.5(1)—animals as property; Damages(115) 113—injuries to personal property;
  - Cases from Kaufman:
    - McMahon v. Craig, 97 Cal. Rptr.3d 555 (Ct. App. 2009) (also rejecting claim for emotional distress based upon veterinarian’s negligence—owner not directly harmed);
    - Goodby v. Vetpharm, Inc., 974 A.2d 1269 (Vt. 2009) (refusing to extend compensation for loss of a pet where similar recovery is not allowed for loss of a friend, relative, etc.—Arizona Court of Appeals in Kaufman adopts this reasoning)

**B. List any additional relevant cases you found using the different case law finding methods.** (Briefly summarize how it is relevant.) [If none, write none]

NONE

**C. List any additional relevant secondary sources, statutes, or regulations cited in the cases you found.** (Briefly summarize how it is relevant.) [If none, write none]

NONE

**D. Update ALL cases listed above.** (Remember a flag/stop sign does not necessarily mean a case is no longer good law on your point of law.)

Case Name	Status of Case	Any New Citing Cases on point
Roman v. Carroll, 127 Ariz. 398, 621 P.2d 307 (Ct. App. 1980)	Green C only citing references	NONE
Kaufman v. Langhofer, 222 P.3d 272 (Ariz. Ct. App 2009)	Blue H for history—not relevant to this issue	Scheele v. Dustin, 998 A.2d 697(Vt. 2010)(rejecting noneconomic damages claim for loss of pet based upon intentional infliction of

		emotional distress, but again recognizing that “the emotionless economic calculus of property law may not fully compensate a mourning pet owner” and that there may be ways to calculate the economic value of the pet’s loss).
McMahon v. Craig, 97 Cal. Rptr.3d 555 (Ct. App. 2009)	Blue H for history—not relevant to this issue	NONE
Goodby v. Vetpharm, Inc., 974 A.2d 1269 (Vt. 2009)	Yellow flag—distinguished by Scheele v Dustin (see above)	NONE
Scheele v. Dustin, 998 A.2d 697(Vt. 2010)	Green C only citing references	NONE

**4. Brief (1 - 3 paragraphs) application of the law to the facts:** (Note: Your answer does not have to be long but it should demonstrate that you found the relevant law, understand it, and know how it applies to the issue in this case.)

Several years ago, the Arizona Court of Appeals (Division 2) denied recovery to a dog owner for negligent infliction of emotional distress when defendant’s dog killed plaintiff’s dog in front of the plaintiff, noting that dogs are property under A.R.S. § 1-215(30) and that the negligent infliction of emotional distress theory does not provide recovery for loss of property. Roman v. Carroll, 127 Ariz. 398, 621 P.2d 307 (Ct. App. 1980). Very recently the Court of Appeals (Division 1) further rejected emotional distress damages for the death of a pet due to veterinary negligence. Kaufman v. Langhofer, 222 P.3d 272, 276 (Ariz. Ct. App 2009). The court also rejected any attempt to recover for loss of companionship of a pet, noting that similar recovery is not allowed for the “loss of close human friends, siblings, and nonnuclear family members...” Id. at 279. The court noted that its decision was narrow in scope, applying only when a pet is negligently injured or killed, recognizing that “several states allow damages for the intentional infliction of distress when a pet is injured or killed through intentional, willful, malicious, or reckless conduct.” Id at fn. 13 (citations omitted). The court also refused to address as waived by the plaintiff, the question of whether to use the “value to owner theory” to measure the pet’s value to the pet owner for loss of property where the pet has no market value. Id. at 277 (citations omitted).

The facts of our case indicate Dr. Wolfe was at the least negligent in failing to care for Lupe. The holdings in Roman and Kaufman preclude recovery for negligent infliction of emotional distress for loss of a pet, so no recovery is available under that theory. Kaufman also refuses to permit a recovery for loss of companionship of a pet due to negligence. Unless further

development of the facts in Dr. Wolfe’s case demonstrate “intentional, willful, malicious, or reckless conduct” on his part, recovery on these theories is unlikely. If our client is correct in his assumption that “Dr. Wolfe has a drinking problem”, if we can show that this contributed to inattention that resulted in Lupe’s escape, we might be able to establish willful or reckless conduct on Dr. Wolfe’s part. One theory of recovery mentioned in Kaufman, but not addressed due to the plaintiff’s failure to raise it in the lower court, might permit a recovery for the “value to the owner” for property (here a pet) that has no market value. Further research would need to be done if this theory is to be raised by Ms. Veritas.

## **Issue Two – Unemployment Claim—discharge for misconduct (40 points)**

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### **Preliminary Analysis**

#### **Legal Issues:**

Whether Ms. Shepherd’s firing for not securing the dog crate amounted to misconduct connected with her work so that she would not be qualified to get unemployment benefits; which party bears the burden of proof on the issue of misconduct

#### **Relevant Facts:**

Dr. Wolfe believes Ms. Shepherd did not secure Lupe’s crate, allowing her to escape; Ms. Shepherd had been most long term employee and never had any problems at work before

#### **Jurisdiction:**

Arizona, Department of Economic Security hearing office

#### **Key Terms:**

unemployment, misconduct, work, discharge, burden of proof

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### **1. Rules/Regulations/Statutes:**

#### **A. Useful index or search terms.**

Could look in index under terms listed above or do a terms and connectors search online; in both statutes and regulations would be helpful to look at table of contents for related sections

#### **B. Relevant code section(s).** (Don’t forget to check surrounding sections for definitions or other relevant information.)

#### **Statutes:**

- ARS § 23-619.01 – defines misconduct
- ARS 23-775 – disqualification from benefits

Regulations:

- AAC R6-3-5105 – misconduct in general
- AAC R6-3-51190 – evidence and burden of proof for misconduct
- AAC R6-3-51300 – manner of performing work
- AAC R6-3-51310 – neglect of duty

**C. Relevant Topic/Key Number(s) in annotations.** (Briefly summarize how it is relevant.)

ARS § 23-619.01

- Burden of proof issue—Unemployment Compensation 377(1),(2)

ARS 23-775:

- Burden of proof issue—Unemployment Compensation 377(1),(2)
- Misconduct -- Unemployment Compensation 579 (penalty provision narrowly construed)

**D. Relevant cases in annotations.** (Briefly summarize how it is relevant.)

ARS § 23-619.01: Burden of proof issues—lists a few cases, should note at least a couple here or in looking at ARS 23-775 below:

- Rios Moreno v. Arizona Dept. of Economic Sec., 178 Ariz. 365, 873 P.2d 703 (Az. Ct. App. 1994) (most recent one listed stating employer has burden of proof on misconduct issue);
- Ross v. Arizona Dept. of Economic Sec., 171 Ariz. 128, 829 P.2d 318 (Az. Ct. App. 1991) (noting that while claimant has general burden of proving eligibility, where employer asserts discharge for misconduct, employer bears burden of proof on that issue);
- Castaneda v. Arizona Dept. of Economic Sec. 168 Ariz. 491, 815 P.2d 418 (Az. Ct. App. 1991) (reiterating that employer bears the burden of proof, but also notes that disqualification from benefits for misconduct set out in ARS 23-775 must be read in context of definition of misconduct set out in ARS 23-619.01)

ARS 23-775: Burden of proof issues—several cases listed, should note at least a couple of them:

- Rios Moreno v. Arizona Dept. of Economic Sec., 178 Ariz. 365, 873 P.2d 703 (Az. Ct. App. 1994) (most recent one listed stating employer has burden of proof on misconduct issue);
- Weller v. Arizona Dept. of Economic Sec, 176 Ariz. 220, 860 P.2d 487 (Az. Ct. App. 1993) (next most recent, says same thing);
- Ross v. Arizona Dept. of Economic Sec., 171 Ariz. 128, 829 P.2d 318 (Az. Ct. App. 1991) (noting that while claimant has general burden of proving eligibility, where employer asserts discharge for misconduct, employer bears burden of proof on that issue);
- Magma Copper Co., San Manuel Division v. Arizona Dept. of Economic Sec., 128 Ariz. 346, 625 P.2d 935 (Az. Ct. App. 1981) (older case relied upon by Ross)

Misconduct—in general:

- Arizona Dept. of Economic Sec. v. Magma Copper Co., 125 Ariz. 389, 609 P.2d 1089 (Az. Ct. App. 1980) (disqualification for misconduct is in the nature of a penalty and should be narrowly construed)

**E. Update relevant code section(s):**

AR § 23-619.01

- Green C for citing references only, no pending legislation

ARS 23-775

- Yellow flag for pending legislation—does not affect our subsection

Arizona Admin Code sections—

- Most did updating on Westlaw, so should check how current it is and find something like: Current with amendments included in the Arizona Administrative Register, Volume 18, Issue 8, dated March 18, 2012.

**F. Brief summary of relevant code section(s). (1 - 2 sentences.)**

Statutes

- ARS § 23-619.01 – provides several examples of what is willful or negligent misconduct connected with the work; also states “In evaluating misconduct, a claimant's prior history of employment with the same employer shall be considered.” A.R.S. § 23-619.01(D)
- ARS 23-775 – provides general language authorizing disqualification for misconduct (either willful or negligent) ARS 23-775(2);

Regulations:

- AAC R6-3-5105 – discusses definitions of misconduct in general (but doesn't refer to ARS 23-619.01, but instead refers to the section that sets out the disqualification, ARS 23-775); sets out a fairly high level of culpability for negligence to be disqualifying AAC R6-3-5105(A)(1)(d)
- AAC R6-3-51190 – discusses and defines evidence and burden of proof ; reiterates that “when a discharge has been established, the burden of proof rests on the employer to show that it was for disqualifying reasons.” AAC R6-3-51190(B)(2)(b)
- AAC R6-3-51300 – (manner of performing work) requires worker to exercise “ordinary care”; defines ordinary care as that care exercised by person of ordinary prudence and varies with the circumstances; in particular, “In the absence of gross carelessness or negligence, or recurrence of ordinary negligence, the claimant's

failure to perform his work properly is presumed to be attributed to good faith error in judgment, inability, incapacity, inadvertence, etc.” AAC R6-3-51300(A)(3)

- AAC R6-3-51310 – (neglect of duty) employee expected to complete tasks given to do but must consider the “extent of his opportunity and ability to do his work properly.” AAC R6-3-51310(A)(2)(b)

**2. Relevant Cases:**

- A. List any additional relevant cases and Topic/Key Numbers you found reading the cases listed in 1D above.** (Briefly summarize how it is relevant.)

NONE

- B. List any additional relevant cases you found using the different case law finding methods.** (Briefly summarize how it is relevant.)

NONE

- C. List any additional relevant secondary sources, statutes, or regulations cited in the cases you found.** (Briefly summarize how it is relevant.)

NONE

- D. Update ALL cases listed above.** (Remember a flag/stop sign does not necessarily mean a case is no longer good law on your point of law.)

Case Name	Status of Case	Any New Citing Cases on point
Rios Moreno v. Arizona Dept. of Economic Sec., 178 Ariz. 365, 873 P.2d 703 (Az. Ct. App. 1994)	Still good law Green C for citing references only	NONE
Ross v. Arizona Dept. of Economic Sec., 171 Ariz. 128, 829 P.2d 318 (Az. Ct. App. 1991)	Still good law Blue H for case has some history	NONE
Castaneda v. Arizona Dept. of Economic Sec. 168 Ariz. 491, 815 P.2d 418 (Az. Ct. App. 1991)	still good law Green C for citing references only	NONE
Weller v. Arizona Dept. of Economic Sec, 176 Ariz. 220, 860 P.2d 487 (Az. Ct. App.	Yellow flag-declined to follow by other states; distinguished on other	NONE

1993)	grounds by Arizona court in criminal case	
Magma Copper Co., San Manuel Division v. Arizona Dept. of Economic Sec., 128 Ariz. 346, 625 P.2d 935 (Az. Ct. App. 1981)	Yellow flag for declined to follow by NJ case	NONE
Arizona Dept. of Economic Sec. v. Magma Copper Co., 125 Ariz. 389, 609 P.2d 1089 (Az. Ct. App. 1980)	Red flag for Superseded by Statute/Rule as Stated in later case, but not for the point cited above (penalty to be strictly construed)	NONE

**3. Brief (2 - 4 paragraphs) application of the law to the facts.** (Note: Your answer does not have to be long but it should demonstrate that you found the relevant law, understand it, and know how it applies to the issue.)

Arizona statutes and accompanying regulations disqualify a worker from unemployment benefits following a discharge for misconduct connected with the work. ARS 23-775(2); AAC R6-3-5105. The statutes and regulations provide some general and more specific definitions of misconduct. ARS 23-619.01; ARS 23-775; AAC R6-3-5105.

Ms. Shepherd's chance of success might turn upon whether the hearing officer believes Dr. Wolfe's claim that she left the crate unsecured and considers that to constitute negligence arising to disqualifying misconduct. Regulations set a fairly high level of culpability for negligence to constitute disqualifying misconduct. AAC R6-3-5105(A)(1)(d). Absent gross negligence or repeated ordinary negligence good faith is presumed. AAC R6-3-51300(A)(3).

The pressure on Ms. Shepherd to leave in order to avoid overtime pay might have compromised her opportunity to perform the work properly. AAC R6-3-51310(A)(2)(b). Ms. Shepherd's long history of trouble free work might help her claim. A.R.S. § 23-619.01(D) (mandating consideration of claimant's prior history of employment with the same employer).

Ms. Shepherd's arguments might be bolstered by case law indicating that the misconduct disqualification is in the nature of a penalty and should be strictly construed, *Arizona Dept. of Economic Sec. v. Magma Copper Co.*, 125 Ariz. 389, 609 P.2d 1089 (Az. Ct. App. 1980), superseded by statute on other grounds, A.R.S. § 23-619.01, as recognized in *Anderson v. Ariz. Dep't of Econ. Sec.*, 151 Ariz. 350, 353, 354, 727 P.2d 845, 848, 849 (App.1986).

Case law and regulations all show that the employer bears the burden of proof on the misconduct issue, *Rios Moreno v. Arizona Dept. of Economic Sec.*, 178 Ariz. 365, 873 P.2d 703 (Az. Ct. App. 1994), AAC R6-3-51190(B)(2)(b). If the question of misconduct is a close call, it will help Ms. Shepherd and work against Dr. Wolfe.

**Issue Three – precedential value of a Court of Appeals decision from one division of the court on later cases decided by courts in another division (30 points)**

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**Preliminary Analysis**

**Legal Issues:**

Whether decisions from one division of the Court of Appeals are binding on courts in another division?

**Relevant Facts:**

Client's potential case will be in Pima County; possibly relevant cases from each division

**Jurisdiction:**

Pima County (Arizona)

**Key Terms:**

precedent, binding, Court of Appeals, division, decision

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**1. Secondary Sources**

A. **Article/source name(s) and citation(s).** (Note: Find the most useful secondary source that you can. List no more than one source unless your additional sources have new information.)

- Arizona Appellate Handbook § 1.1.1 (5<sup>th</sup> ed., Ariz. State Bar 2010)

B. **How did you locate each source and how is it useful?**

Need to find this AZ Bar publication in the online catalog as it is not on Westlaw or Lexis; very useful provides citations to statutes regarding the divisions of the Court of Appeals; cites to case law discussing the precedential value of cases and provides helpful explanations on these points

C. **Relevant code section(s) cited in article/source.** (Briefly summarize how it is relevant.)

- ARS 12-120 – creates the court of appeals and lays out the geographical divisions (see detailed explanation under statutes below)

D. **Relevant cases cited in article/source.** (Briefly summarize how it is relevant.)

- State v. Patterson, 222 Ariz. 574, 218 P.3d 1031 (Ct. App. 2009) (court of appeals is a single court even though it sits in two independent divisions.)

- *Martinez v. Cardwell*, 25 Ariz. App. 253, 542 P.2d 1133 (1975), overruled on other grounds, *Petroni v. Board of Regents*, 115 Ariz. 562, 566 P.2d 1038 (App. 1977) (holding one division of the court of appeals is not bound by a decision of the other division.)
- *Neil B. McGinnis Equip. Co. v. Henson*, 2 Ariz. App. 59, 406 P.2d 409 (1965) (court of appeals not bound by prior decision of its own division, but should only disagree with any prior decision (of either division) “for the most cogent of reasons.”)
- *Scappaticci v. Southwest Sav. & Loan Ass'n*, 135 Ariz. 456, 662 P.2d 131 (1983) (“ one division, or a department within that division, will not disagree with a decision of the other division or other department unless it is convinced that the prior decision was based upon clearly erroneous principles, or that conditions have changed so as to render the prior decision inapplicable.”)

## 2. Statutes:

### A. Useful index or search terms:

Would be easiest to find with secondary source as noted above, could look in index Court of Appeals—Divisions—ARS § 12-120

### B. Relevant code section(s). [If none, write none.]

- ARS § 12-120

### C. Relevant Topic/Key Number(s) in annotations. (Briefly summarize how it is relevant.) [If none, write none.]

- Courts (topic 106) 90(2), 90(7), 91(2)

### D. Relevant cases in annotations. (Briefly summarize how it is relevant.) [If none, write none.]

- *State v. Patterson*, 222 Ariz. 574, 218 P.3d 1031 (Ct. App. 2009)—mentioned in annotation several times, all of which could be relevant here: (1) superior court bound by Court of Appeals decisions regardless of the division; (2) if Court of Appeals decisions conflict, trial court uses its discretion to adopt decision that most persuasively interprets the law regardless of division, no special geographic rules apply; (3) Court of Appeals now only operates in 3 judge panels or departments of a single court, regardless of which division in which it is located; divisions don’t hold, decide or rule on anything.
- Annotation also mentions *Scappaticci* and *McGinnis* (should note if not found in secondary source above)

**E. Update relevant code section(s):**

- ARS § 12-120
  - Yellow flag for proposed legislation, SB 1372, that would drastically reduce the number of judges on the court and do away with departments

**F. Brief summary of relevant code section(s). (1 - 2 sentences.)**

Code itself states court of appeals is a single court. ARS 12-120(A). Division 2 includes Pima County. ARS § 12-120(D). Cases in annotation discuss precedential nature of decisions (see E, above)

**3. Relevant Cases:**

- A. List any additional relevant cases and Topic/Key Numbers you found reading the cases listed in 1D and 2D above. (Briefly summarize how it is relevant.) [If none, write none]**

NO New Cases or Digest Topic or Key Numbers

- B. List any additional relevant cases you found using the different case law finding methods. (Briefly summarize how it is relevant.) [If none, write none]**

Using Digest: Nothing that states anything that has not already been mentioned above.

- C. List any additional relevant secondary sources, statutes, or regulations cited in the cases you found. (Briefly summarize how it is relevant.) [If none, write none]**

NONE

- D. Update ALL cases listed in this issue above. (Remember a flag/stop sign does not necessarily mean a case is no longer good law on your point of law.)**

<b>Case Name</b>	<b>Status of Case</b>	<b>Any New Citing Cases on point</b>
Martinez v. Cardwell, 25 Ariz. App. 253, 542 P.2d 1133 (1975)	red flag; overruled on other grounds	Cited to by Patterson, could find this way if not mentioned above
Neil B. McGinnis Equip. Co. v. Henson, 2 Ariz. App. 59, 406 P.2d 409 (1965)	Green C for citing References	Cited to by Patterson, could find this way if not mentioned above
Scappaticci v. Southwest Sav. & Loan Ass'n, 135 Ariz. 456, 662 P.2d 131 (1983)	Green C for citing References	Cited to by Patterson, could find this way if not mentioned above

State v. Patterson, 222 Ariz. 574, 218 P.3d 1031 (Ct. App. 2009)	Blue H for history— not relevant here	None
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**4. Brief (1 - 3 paragraphs) application of the law to the facts.** (Note: Your answer does not have to be long but it should demonstrate that you found the relevant law, understand it, and know how it applies to the client’s case.)

Although the relevant statute, ARS 12-120, refers to divisions of the Court of Appeals, the court in a recent case made clear that it is the three judge panels or departments of the court that render decisions. State v. Patterson, 222 Ariz. 574, 218 P.3d 1031 (Ct. App. 2009). A trial level court must follow a court of appeals decision (when there are no conflicting decisions) regardless of where the issuing court is located. Id. at 1037. Where there are conflicting court of appeals decisions, geographic location according to which division the panel sits makes no difference (“there is no geographical rule requiring trial courts located in one division of this court to follow a decision from a department within that division when a more persuasive opinion from a department in the other division exists.”). A current panel of the court of appeals is not bound by earlier decisions from any other panel, but should depart from the earlier decision only “for the most cogent of reasons.” Neil B. McGinnis Equip. Co. v. Henson, 2 Ariz. App. 59, 406 P.2d 409 (1965).

For our potential client’s case concerning the loss of Lupe, this case law means that both Roman and Kaufman would bind a superior court in Pima County. On any appeal the cases would be strongly persuasive authority, and the panel hearing the appeal could disagree with them only if “it is convinced that the prior decision was based upon clearly erroneous principles, or that conditions have changed so as to render the prior decision inapplicable.” Scappaticci v. Southwest Sav. & Loan Ass'n, 135 Ariz. 456,461, 662 P.2d 131, 136 (1983) (citations omitted). Recovery for emotional distress or loss of companionship of Lupe based upon Dr. Wolfe’s mere negligence seems unlikely given the holdings in Roman and Kaufman. Still, the dicta in Kaufman concerning possible recovery based upon intentional or reckless conduct could be used to fashion a claim if that level of culpability could be demonstrated. The same holds true for the “value to owner” measure of damages discussed in Kaufman. Any arguments made from these prior cases would be based upon the soundness of their reasoning and applicability to our facts. The court of appeals division of origin would make no difference. Similar reasoning would apply to application of the cases dealing with disqualification from unemployment benefits.