

[Jeter v. Mayo Clinic Arizona \[Brief\] \(2005\)](#) ^[1]

By: Heathcotte, Brock Keywords: [Fertilization](#) ^[2] [Bioethics](#) ^[3]

Court: Arizona Court of Appeals

Citation: *Jeter v. Mayo Clinic Arizona*, 121 P.3d 1256 (Ariz.App. Div. 1 2005)

Status as current law: Probable

Value as precedent: Low

Case significance:

In Arizona, statutes that protect persons, such as the [wrongful death](#) ^[5] statute, will not be interpreted by the courts to grant [personhood](#) ^[6] status to frozen embryos. The legislature may grant such protection in the statute if it chooses to do so by explicitly defining the word person to include frozen embryos.

Case Summary:

- Facts—Belinda and William Jeter sued Mayo Clinic Arizona for the negligent destruction of five frozen pre-embryos. The pre-embryos were derived from Mrs. Jeter’s eggs and Mr. Jeter’s [sperm](#) ^[7], were allowed to develop a couple of days then preserved for future attempts at [in vitro](#) ^[8] [fertilization](#) ^[9]. Five of the pre-embryos were somehow lost during transportation to another clinic, the Arizona Center for Fertility Studies. The Jetters claimed compensation for [wrongful death](#) ^[5], negligence, breach of fiduciary duty, and breach of a bailment contract.
- Law—Arizona Revised Statutes §12-611 stated in part, “When death of a person is caused by wrongful act, neglect or default, and the act, neglect or default is such as would, if death had not ensued, have entitled the party injured to maintain an action to recover damages in respect thereof, then, and in every such case, the person who would have been liable if death had not ensued shall be liable to an action for damages.
- Ruling—The word “person” in Arizona’s [wrongful death](#) ^[5] statute does not include in its scope a cryopreserved, three-day-old 8-cell pre-embryo. Dismissal of the [wrongful death](#) ^[5] claim was proper. However, the Jetters could sue under the negligence and breach of fiduciary duty or bailment contract claims so the trial court’s dismissal of those claims was reversed.

Quotes:

“[G]iven the current unsettled discussion over when life begins in this context, it is best left to the Arizona Legislature, not the courts, to decide whether to include a three-day-old, eight-cell cryopreserved pre-embryo within the statutory definition of ‘person’ under the [wrongful death](#) ^[5] statutes.” 121 P.3d 1261

“Unlike a [viable](#) ^[10] [fetus](#) ^[11], many variables affect whether a [fertilized egg](#) ^[12] outside the [womb](#) ^[13] will eventually result in the birth of a child. This makes it speculative at best to conclude that ‘but for the injury’ to the [fertilized egg](#) ^[12] a child would have been born and therefore entitled to bring suit for the injury.” 121 P.3d 1262

“It is important to understand what the Jetters argue. Neither in the superior court nor in this Court did the Jetters claim that they had evidence to support a view that a cryopreserved pre-embryo fits within the definition of a [viable](#) ^[10] [fetus](#) ^[11] as discussed in *Summerfield*, that is, an entity which can presently survive to birth outside of the [womb](#) ^[13]. Rather, relying on various treatises, the Jetters contend that medical science has so advanced since the supreme court decided *Summerfield*, that as a matter of law and statutory construction, this Court should expand the definition of a ‘person’ articulated in *Summerfield* to allow [wrongful death](#) ^[5] actions for the loss of cryopreserved three-day-old eight-celled pre-embryos because they have the potential to become [viable](#) ^[10]. They contend those medical advances allow such pre-embryos to maintain ‘extrauterine’ life via the [cryopreservation](#) ^[14] process.” 121 P.3d 1265

This case cites to these authorities:

Summerfield v. Superior Court, 698 P.2d 712 (Ariz. 1985)

The word “person” in Arizona’s [wrongful death](#) ^[5] statute includes a [viable](#) ^[10] [fetus](#) ^[11].

Maienschein, Jane, *Whose View of Life? Embryos, Cloning and Stem Cells*, [Harvard University Press](#) ^[15], Cambridge MA (2003)

This case was cited in:

Brobst, Jennifer A., The Prospect of Enacting an Unborn Victims of Violence Act in North Carolina, 28 N.C. Cent. L.J. 127, 171 (2006)