What Exactly Is The “Law of the Case” Doctrine?

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It's a phrase that we lawyers use all of the time, often without a second thought: the "law of the case." But Magistrate Judge Joseph G. Scoville had occasion to explain the correct usage of this doctrine in *Stryker Corporation v. TIG Insurance Company, Case No. 1:05-cv-51 (U.S. District Court for the Western District of Michigan)*.

TIG had sought a protective order against certain discovery based on an earlier partial summary judgment ruling by U.S. District Judge Robert Holmes Bell. According to TIG, Judge Bell's ruling made "significant factual findings and legal determinations that are 'now binding law of the case'" as to the very issues for which Stryker sought discovery.

Judge Scoville clarified that the term "law of the case" can mean two very different things depending on context. First, it may refer to the requirement that a district court follow the law as established by an appellate court in earlier proceedings in the same case. In other words, the appellate court's rulings are binding in subsequent proceedings. Second, the term may refer to the discretion that a district court has to adhere to its own legal rulings made at an earlier stage of the same case. The district court's earlier rulings are not binding, however, because Rule 54(b) of the Federal Rule of Civil Procedure allows the district court to reconsider and revise its earlier rulings at any time before the entry of judgment.

TIG's motion was based on the latter version of the "law of the case" doctrine, as it was based on the District Court's own summary judgment ruling. Because this ruling could be reconsidered at the Court's discretion, potentially as a result of the new discovery at issue in the motion, Judge Scoville denied the motion for protective order.

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