
BOTH MINOR AND PARENT HAVE THE RIGHT TO RECOVER MINOR'S MEDICAL EXPENSES

January 18, 2011 | Law Alerts, News

Desela v. Prescott Unified School District
Ariz. Supreme Court, January 18, 2011

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On November 10, 2004, minor plaintiff was injured at Prescott High School. On January 31, 2005, minor's mother assigned to the minor all claims for medical expenses. On March 22, 2005, minor filed a notice of claim. She turned eighteen on December 29, 2006. Six weeks later, a court-appointed conservator filed another notice of claim for her. On December 31, 2007, Plaintiff's estate filed this negligence action against PUSD.

The trial court granted PUSD's motion to dismiss the claim for the minor's medical expenses because the claim originally belonged to mother and was not brought within one year of its accrual. The court of appeals reversed. In *Pearson & Dickerson Contractors, Inc. v. Harrington* (1943), the Supreme Court held that the parent, and not the minor child, is the proper party to sue to recover a minor's medical expenses. But *Pearson* also recognized that a parent can assign the right of recovery to the minor. Relying on this portion of *Pearson*, the court of appeals said the assignment triggered the tolling provision of A.R.S. § 12-502, allowing Plaintiff to bring her action for medical expenses within one year of her eighteenth birthday.

The Arizona Supreme Court overruled *Pearson* and held that both the minor and the minor's parents are entitled to recover pre-majority medical expenses resulting from injuries to the minor, but double recovery is not permitted. Furthermore, because a minor may sue a public entity or public employee within one year after turning eighteen (even if the cause of action accrues during childhood), the minor's suit for expenses was timely, regardless of the assignment.