

ARIZONA COURT OF APPEALS REINFORCES NOTICE OF CLAIM REQUIREMENT

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Last week, the Arizona Court of Appeals affirmed the dismissal of a case against the City of Phoenix for plaintiff's failure to comply with the notice of claim statute.

Plaintiff was a former Phoenix police detective. He delivered a notice of claim letter to the City alleging defamation and violations of the Family Medical Leave Act. The notice said plaintiff would be suing the City and the police department "seeking damages for 1.5 million dollars," which he claimed were his lost wages. The notice instructed the City to contact his lawyer "to obtain an agreeable resolution to this matter." The City did not respond.

Plaintiff filed suit, but the trial court dismissed it for failure to make a valid settlement offer in the notice. The court of appeals affirmed, noting that a valid notice of claim must "contain a specific amount for which the claim can be settled and the facts supporting that amount." Simply reciting the amount a claimant will demand in a complaint is insufficient to satisfy the notice of claim statute, because such a statement does not express a willingness to accept a specific sum in settlement. Indeed, the notice failed to demonstrate a willingness to settle for any amount, nor did the invitation to contact his lawyer to bargain for a yet-undefined amount satisfy the statute. The court also rejected plaintiff's argument that he could have fixed the deficiencies in his notice of claim if the City had requested clarification, noting that "public entities in Arizona are not duty-bound to assist claimants with statutory compliance."

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