

ARIZONA COURT OF APPEALS CLARIFIES NOTICE OF CLAIM SUM CERTAIN REQUIREMENT

May 31, 2018 | Law Alerts, News



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Today, the Arizona Court of Appeals clarified that a notice of claim that describes multiple causes of action against multiple public entities, but sets forth only a single settlement amount – rather than making a separate settlement demand on each entity – satisfies the “sum certain” requirement under Arizona’s notice of claim statute (A.R.S. § 12-821.01).

In *Donovan*, Plaintiff worked in a building owned by the Northern Arizona Council of Governments (“Council”) that was located and leased from Yavapai Community College. Plaintiff noticed mold in the building and alleged her exposure to it resulted in physical injury. Plaintiff complained to the Council about the mold and the Council’s alleged failure to remedy the problem, and was then fired. Plaintiff sent a notice of claim to the Yavapai College, the Northern Arizona Council of Governments, and several other government agencies and officials. Plaintiff’s letter stated that she would “accept the sum of \$450,000 as full and final settlement.”

The Superior Court dismissed Plaintiffs’ case on the basis that her notice of claim did not state a sufficiently specific “sum certain” because it “described more than one cause of action against more than one public entity, but set forth only a single, overarching settlement amount rather than an apportioned offer specific to Yavapai College alone.”

The Arizona Court of Appeals reversed this decision, holding that “[t]he notice of claim statute does not require that the proffered settlement amount be objectively reasonable; it simply requires a statement of a specific settlement amount with supporting facts. When a claimant demands an amount that the public entity deems unreasonable, nothing prevents the public entity from attempting to negotiate settlement for a lesser amount or from collaborating with other parties to reach a global settlement. But by virtue of a proper notice of claim, the public entity remains assured that, for the specific amount stated (reasonable or otherwise), it can satisfy its liability.” The Court of Appeals reasoned that “[b]ecause Donovan’s notice of claim provided a definite and exact amount for which Yavapai College could settle, the superior court erred by concluding that the notice of claim failed to satisfy the requirements of § 12-821.01(A) and by entering summary judgment in favor of Yavapai College on that basis.”

Going forward, the *Donovan* case will likely be a strong impediment to any notice of claim argument regarding a sum certain amount that clearly states a settlement amount but does not further delineate which party or which claim it applies to. So long as it is clear that the notice of claim provides a single amount to settle all claims, under *Donovan*, that is sufficient to satisfy A.R.S. § 12-821.01’s sum certain requirement. We will be tracking this case to see if a Petition for Review is filed by the defendants.

[click here to read the full opinion](#)