
CLAIM ACCRUAL FOR NOTICE OF CLAIM PURPOSES DOES NOT AWAIT EXPERT OPINION ON FAULT

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Thompson v. Pima County

Ct. Appeals, Div. Two, November 16, 2010

Authored by the [JSH Appellate Team](#)

On October 3, 2006, Taylor Thompson was injured when her car veered off a paved road. A deputy sheriff informed her family that potholes in the road might have contributed to the accident. The family enlisted an accident reconstruction expert who concluded, on February 7, 2007, that the condition of the road caused the accident. The family filed their notice of claim on July 30, 2007 – just under 180 days after receiving the expert’s report, but nearly ten months after the accident. The trial court granted summary judgment in favor of Pima County, ruling that the notice of claim was untimely. Plaintiffs appealed.

On appeal, the family argued that under the notice of claim statute, their claim did not accrue until they had “facts sufficient” to file a valid notice of claim. They argued they did not have such facts until they received their expert’s report. The court of appeals disagreed. The “facts sufficient” requirement in the claim statute is different from the “accrual” question. “Facts sufficient” refers to the “quantum of facts that the plaintiff must include in the notice of claim,” whereas “accrual” refers to when a plaintiff first becomes aware that he or she has a cause of action against the defendant. Because the family was aware of a possible cause of action against Pima County within days of the accident, that is when their claim accrued. Their notice of claim was thus untimely, and summary judgment was affirmed.