

## **PARENT CAN ASSIGN CLAIM FOR CHILD'S MEDICAL EXPENSES TO CHILD AND TAKE ADVANTAGE OF CHILD'S TOLLING OF STATUTE OF LIMITATIONS**

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*DeSela v. Prescott Unified School Dist.*  
Ct. Appeals, Div. One, April 20, 2010

Authored by the [JSH Appellate Team](#)

In November 2004, a minor was injured when she fell off the hood of a moving car in the school parking lot. Before either the notice of claim deadline or the statute of limitations expired, her mother assigned to the minor the mother's claim against the school district for the minor's medical expenses. The minor timely submitted a notice of claim, but waited until December 2007 to file a lawsuit. This was more than three years after the incident, but within one year of the minor turning 18. Defendant did not dispute the assignment. While Arizona case law does not allow the assignment of personal injury claims, a parent may assign a minor the right to recover medical expenses. Defendant argued only that the assigned claim for medical expenses was untimely. Defendant argued that the tolling provisions of A.R.S. § 12-502 did not apply because the minor, as the assignee, stood in the mother's shoes and could not receive any more than what the mother/assignor possessed.

The court of appeals rejected this reasoning and held that because the claim was assigned before the statute of limitations had run, the limitations period was tolled under A.R.S. § 12-502 until the minor turned 18. Thus, that portion of the minor's suit for those expenses was timely filed. The outcome would have been different had the limitations period on the mother's medical expense claim expired before the assignment. The court also noted that barring the claim for medical expenses would serve no identifiable public purpose. Tolling the statute of limitations permits the minor to better determine and seek recovery for the full extent of her damages; Defendants were not deprived of the benefit of the notice of claim statute because they received the notice of claim within six months of the injury; and Defendants were not faced with a stale claim, because the timely notice of claim allowed them to know of and investigate the facts underlying the claim.