

Summary of Issues Accepted for Review by the Arizona Supreme Court

The Arizona Supreme Court accepted review of the following issues on April 20, 2009.*

Havasupai Tribe v. Arizona Board of Regents, No. CV 98-0007-PR; 1 CA-CV 07-0454 and 1 CA-CV 07-0801 (Consolidated Opinion)

Issues presented:

1. Arizona law requires the claimant who asserts that a “public employee’s conduct” gives “rise to damages” must “give notice both to the employee individually and his employer.” *Crum v. Superior Court*, 186 Ariz. 351, 352, 922 P.2d 316, 317 (App. 1996) (emphasis added); *accord Johnson v. Superior Court*, 158 Ariz. 507, 509, 763 P.2d 1382, 1384 (App. 1988). Did the court of appeals erroneously determine that “the plaintiffs in these cases complied with that requirement” (Decision at ¶ 67) as to Drs. Martin and Benyshek?
2. In its October 11, 2006 ruling, the trial court determined that Notices of Claim filed by the Tilousi Plaintiffs on November 6, 2003 and December 29, 2003 did not meet the statutory requirements of A.R.S. § 12-821.01 with respect to Drs. Martin and Benyshek) (See October 11, 2006 trial court ruling, attached to the Separate Supplemental Appendix (“SSA”). The October 11, 2006 ruling was not the subject of appellate review. (Decision at ¶ 24, n. 5). Did the court of appeals erroneously determine that the August 14 Notice of Claim should be “supplemented” by the November 6, 2003 and December 29, 2003 letters, [which] constituted valid Notices of Claim? (Decision ¶ 56) as to Drs. Martin and Benyshek?
3. A.R.S. § 12-821.01 requires a claimant to include “facts sufficient to permit the public entity or public employee to understand the basis upon which liability is claimed.” The August 14, 2003 Notice of Claim does not contain any facts supporting the claimed liability of Drs. Martin and/or Benyshek. Did the court of appeals err when it determined that the allegations in the Notice of Claim establishing the alleged liability of “ASU” were sufficient to permit the “public employees” (Drs. Martin and Benyshek) to understand the basis of the claims against them? (Decision at ¶ 50).
4. A.R.S. § 12-821.01 requires every claimant to fully comply with the Notice of Claim requirements. Did the court of appeals erroneously determine that an individual claimant need not provide any facts supporting his settlement demand

* Unless noted, the issues are taken verbatim from either the petition for review or the certified question.

so long as that claimant asserts a tort that gives rise to “presumed damages and general damages?” (Decision at ¶ 55).