

Claims Against Public Entities

By: Wayne C. Fricke; March 2002

In a case that should not go unnoticed by those who pursue civil cases against public entities, Division II of the Court of Appeals of the State of Washington, reversed the trial court and found that pursuant to RCW 4.92.100 the individual claimant, not the attorney, is required to sign a claim when pursuing a lawsuit against the State of Washington. RCW 4.92.100 provides:

All claims against the state for damages arising out of tortious conduct shall be presented to and filed with the risk management office. All such claims shall be verified and shall accurately describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury of damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing the claim or if the claimant is a minor, or is a nonresident of the state, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing the claimant.

With respect to the content of such claims this section shall be liberally construed so that substantial compliance will be deemed satisfactory.

In Shannon v. State of Washington and DOC, 26446-3-II (2/22/2002), the Court of Appeals held that summary judgment should have been granted for the state based on the fact that the attorneys for the claimant signed the tort claim form after the state had sent a letter that instructed that the “claimant or legal representative” must sign the form.

In interpreting the statute, the court held that the intent of the statutory language was unambiguous and that the only time a claimant is not required to sign the form is if he or she is incapacitated, a minor, or a nonresident of the state, in which case an agent representing the claimant can sign. The court held that because the statute created very specific exceptions as to when a claimant need not verify the claim, the provision would only have meaning if the claimant must personally verify the claim in all other circumstances. The court indicated it had to interpret the statute so that all of the language had meaning, and the only reasonable

interpretation was that claimants who do not meet the exceptions must personally verify and sign their own tort claim.

In an unpublished part of the opinion, the court held that the state was not estopped from raising the argument because the form it sent to the claimant was consistent with the statutory language when it accurately stated that either the claimant or legal representative must sign the claim. The form apparently also included language as to when a legal representative may sign for the claimant. Thus, Division II reversed and remanded with directions to grant the state's motion to dismiss claimant's wrongful death case.

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