

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



DIVISION ONE  
FILED: 07/19/2012  
RUTH A. WILLINGHAM,  
CLERK  
BY: sls

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

MARICOPA COUNTY, a political	)	1 CA-SA 12-0136
subdivision of the State of	)	
Arizona, MARICOPA COUNTY SPECIAL	)	DEPARTMENT C
HEALTH CARE DISTRICT, et al,	)	
	)	Maricopa County Superior
Petitioners,	)	Court No. CV 2012-090080
	)	
v.	)	<b>DECISION ORDER</b>
	)	
THE HONORABLE KAREN POTTS, Judge	)	
of the SUPERIOR COURT OF THE	)	
STATE OF ARIZONA, in and for the	)	
County of MARICOPA,	)	
	)	
Respondent Judge,	)	
	)	
MARGARITA ZARAGOZA,	)	
	)	
Real Party in Interest.	)	
	)	

This special action arises out of a "slip and fall" negligence claim filed against petitioners Maricopa County Special Healthcare District ("District") and Maricopa County ("County") by the real party in interest, Margarita Zaragoza. In the petition, the County argues the superior court should have dismissed Zaragoza's claim against it because it cannot be vicariously liable to her, as a matter of law, and the District argues the superior court should have dismissed the claim against it because Zaragoza failed to file a notice of claim

with the District, as required under A.R.S. § 12-821.01 (Supp. 2011).

**IT IS ORDERED** the court, Presiding Judge Patricia K. Norris, and Judges Donn Kessler and Samuel A. Thumma, denies special action jurisdiction of the issue raised by the County. See *City of Phoenix v. Yarnell*, 184 Ariz. 310, 315, 909 P.2d 377, 382 (1995) (special action to review superior court denial of partial summary judgment is disfavored).

**IT IS FURTHER ORDERED** accepting jurisdiction of the issue raised by the District. Cf. *Henke v. Superior Court*, 161 Ariz. 96, 99-100, 75 P.2d 1160, 1163-64 (App. 1989) (immunity actions are particularly appropriate for review by special action because immunity would be lost if defendant were forced to go to trial); A.R.S. § 12-821.01(A) (claim barred if not filed within 180 days after accrual of cause of action).

Under A.R.S. § 12-821.01(A), before filing most<sup>1</sup> court claims against a public entity or employee, a claimant must "file claims with the person or persons authorized to accept service for the public entity or public employee as set forth in the Arizona rules of civil procedure within one hundred eighty days after the cause of action accrues." It is undisputed Zaragoza did not file a notice of claim with the District, although she did with the County.

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<sup>1</sup>For example, the notice of claim statute is inapplicable to claims under 42 U.S.C. § 1983. See *Felder v. Casey*, 487 U.S. 131, 108 S. Ct. 2302, 101 L. Ed. 2d 123 (1988). This exception, however, is not implicated here.

Zaragoza argues she was not required to file a notice of claim with the District directly but could serve the Clerk of the Maricopa County Board of Supervisors because the Board serves as the District's chief executive officer. See Ariz. R. Civ. P. 4.1(i). In support of this argument, she points out, *inter alia*, the County provides insurance coverage for the District and the County owns the Maricopa Medical Center building, which it leases to the District. We disagree that these facts demonstrate or create an issue of fact that the County was serving as the District's chief executive officer for filing of the notice of claim.

The District was created under A.R.S. § 48-5501.01(D) and, therefore, is a "political subdivision" under Article 13, Section 7, of the Arizona Constitution. The District has its own independent governing board. See A.R.S. § 48-5541.01 (Supp. 2011). Moreover, A.R.S. § 48-5541(2) (2005) provides the District may "[s]ue and be sued." Although the District has entered into various legal arrangements and agreements with the County, these relationships do not change the fact that the County and the District are separate legal entities with separate governing boards, nor do they transform the Board into the District's chief executive officer.

For the foregoing reasons, we grant the relief requested by the District. We remand this case to the superior court with directions to dismiss the District from this action.

/s/  
PATRICIA K. NORRIS, Presiding Judge