

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

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JUANA ARMADILLO, *Appellant*,

*v.*

ARIZONA DEPARTMENT OF ECONOMIC SECURITY, an agency,

*and*

99 CENT ONLY STORES, *Appellees*.

No. 1 CA-UB 17-0213  
FILED 10-3-2017

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Appeal from the A.D.E.S. Appeals Board  
No. U-1513939-001-BR

**VACATED AND REMANDED**

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COUNSEL

Stinson Leonard Street LLP, Phoenix  
By Larry J. Wulkan, Michael Vincent  
*Counsel for Appellant*

Arizona Attorney General's Office, Phoenix  
By Carol A. Salvati  
*Counsel for Appellee Arizona Department of Economic Security*

**MEMORANDUM DECISION**

Chief Judge Samuel A. Thumma delivered the decision of the Court, in which Judge Michael J. Brown and Judge Margaret H. Downie joined.

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**T H U M M A**, Judge:

¶1 Appellant Juana Armadillo challenges an Appeals Board decision affirmed upon review denying her application for unemployment benefits. Appellee Arizona Department of Economic Security (ADES) has confessed error and agrees that the decision should be vacated. Because Armadillo’s arguments are well-taken, the decision is vacated and this matter is remanded for an award of unemployment benefits to Armadillo and other proceedings consistent with this decision.

**FACTS AND PROCEDURAL HISTORY**

¶2 Armadillo worked as a cashier at 99 Cents Only Stores beginning in 2014. In late December 2015, Armadillo’s husband developed significant medical issues and she needed to care for him on December 28, 2015. When she requested leave to do so, 99 Cents Only Stores refused the request and refused her offer to provide documentary proof of her husband’s medical issues and need for care. Armadillo did not report to work on December 28, 2015 so she could care for her husband.

¶3 When Armadillo reported for work on December 29, 2015, after her request for the day off was refused, she quit given her need “to take care of [her] husband.” Armadillo’s last day of employment with 99 Cents Only Stores was December 29, 2015.

¶4 Armadillo was never informed of her rights under the Family Medical Leave Act, 29 U.S.C §§ 2601, *et seq.* (FMLA).

¶5 A Determination of Deputy found Armadillo left work voluntarily without good cause and, as a result, was disqualified from receiving unemployment benefits. Armadillo timely, but unsuccessfully, challenged that determination, including through an evidentiary hearing before an administrative law judge, resulting in an Appeals Board decision affirmed upon review.

ARMADILLO v. ADES/99 CENT  
Decision of the Court

¶6 In June 2017, this court granted Armadillo's application for appeal and placed this matter in the Arizona Court of Appeals Pro Bono Representation Program. Pro bono counsel for Armadillo appeared of record, was appointed and then filed the opening brief on August 25, 2017. ADES responded by confessing error and requesting reversal.<sup>1</sup>

**DISCUSSION**

¶7 This court reviews the evidence in a light most favorable to affirming the Appeals Board decision and will affirm if any reasonable interpretation of the record supports it. *Baca v. Ariz. Dep't of Econ. Sec.*, 191 Ariz. 43, 46 (App. 1997). The court, however, will overturn a decision that is arbitrary, capricious or an abuse of discretion, or not supported by the record. *Avila v. Ariz. Dep't of Econ. Sec.*, 160 Ariz. 246, 248 (App. 1989). Issues of law are reviewed de novo. *Bowman v. Ariz. Dep't of Econ. Sec.*, 182 Ariz. 543, 545 (App. 1995).

¶8 As ably described in the opening brief, and as acknowledged by ADES in its confession of error, 99 Cents Only Stores interfered with Armadillo's FMLA rights. As a result, Armadillo was denied the FMLA benefits to which she was entitled. As Armadillo's opening brief also describes, without contradiction, the Appeals Board decision affirmed upon review cannot stand and she is entitled to unemployment benefits.

**CONCLUSION**

¶9 The Appeals Board decision affirmed upon review is vacated and this matter is remanded for an award of unemployment benefits to Armadillo and other proceedings consistent with this decision.



AMY M. WOOD • Clerk of the Court  
FILED: AA

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<sup>1</sup> Cases selected for participation in the Pro Bono Program usually will be set for oral argument. *See* Administrative Order 2014-04 at 2. Given ADES' confession of error, however, the court is resolving this case without oral argument.