IN THE

# SUPREME COURT OF THE STATE OF ARIZONA

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**JOSEPH E. TERBORG, INDIVIDUALLY,**
*Plaintiff/Appellant,*

*v.*

**TOWN OF PAYSON, A POLITICAL SUBDIVISION OF THE STATE OF ARIZONA,**
*Defendant/Appellee.*

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No. CV-25-0317-PR
**Filed September 24, 2026**

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Appeal from the Superior Court in Gila County
The Honorable Timothy M. Wright, Judge
No. S0400CV202400109

**AFFIRMED**

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Opinion of the Court of Appeals,
Division Two
261 Ariz. 176 (App. 2025)

**VACATED**

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COUNSEL:

James M. Jellison (argued), Jellison Law Offices, P.L.L.C., Scottsdale, Attorney for Town of Payson

David L. Abney (argued), Ahwatukee Legal Office, P.C., Phoenix, Attorneys for Joseph E. Terborg

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CHIEF JUSTICE TIMMER authored the Opinion of the Court, in which VICE CHIEF JUSTICE LOPEZ, and JUSTICES BOLICK, BEENE, MONTGOMERY, KING, and CRUZ joined.

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CHIEF JUSTICE TIMMER, Opinion of the Court:

**¶1** A party intending to sue a public entity must first serve it with a notice of claim describing the basis for the claim and "contain[ing] a specific amount for which the claim can be settled." A.R.S. § 12-821.01(A). Here, plaintiff Joseph Terborg submitted a notice of claim to the Town of Payson and others (collectively, the "Town") offering to settle his personal injury claim for "one hundred thousand dollars ($250,000)." We conclude that because the written and numerical amounts for the settlement offer conflict, Terborg failed to comply with § 12-821.01(A)'s specific-amount requirement. The Town was not required to ask Terborg what he meant or apply contract law principles to determine his intended settlement offer. The superior court therefore correctly entered summary judgment for the Town.

## BACKGROUND

**¶2** In June 2023, a police dog from the Payson Police Department mistakenly attacked and injured bystander Terborg while chasing a suspect. To comply with § 12-821.01(A), Terborg timely provided his notice of claim to the Town. After describing the basis for his claim, Terborg offered to settle for "one hundred thousand dollars ($250,000)."

**¶3** After the Town did not accept Terborg's offer within the statutorily prescribed 60-day period, Terborg filed his complaint seeking damages for his injuries. The Town moved to dismiss the complaint for failure to comply with § 12-821.01(A)'s specific-amount requirement. The

superior court treated the motion as one for summary judgment and granted it.

**¶4** The court of appeals reversed, concluding that Terborg's notice of claim complied with § 12-821.01(A). *Terborg v. Town of Payson*, 261 Ariz. 176, 181 ¶ 19 (App. 2025). Applying contract law principles, the court explained that when an offer's provisions are contradictory, courts seek to ascertain the offeror's intent to resolve the conflict. *See id.* at 180 ¶ 12. The court reasoned that "[u]nder settled understandings of legal style," parentheticals are "subordinate" and "incidental" to the referenced text, and "words prevail over numbers." *See id.* ¶¶ 14–15. It therefore found that Terborg unambiguously offered to settle his claim for one hundred thousand dollars, thereby complying with § 12-821.01(A)'s specific-amount requirement. *Id.* at 181 ¶ 16.

**¶5** We granted the Town's petition for review because whether conflicting settlement-amount language in a notice of claim satisfies § 12-821.01(A) is an issue of statewide importance. We have jurisdiction pursuant to article 6, section 5(3) of the Arizona Constitution.

## DISCUSSION

**¶6** We review the grant of summary judgment and issues of statutory interpretation de novo as questions of law. *See James v. City of Peoria*, 253 Ariz. 301, 303 ¶ 9 (2022). If a statute is subject to only one reasonable interpretation, we apply that interpretation without further analysis. *Id.*

**¶7** We have examined § 12-821.01(A)'s requirements several times over the past two decades. Most recently, in *City of Mesa v. Ryan*, 258 Ariz. 297 (2024), we addressed the statute's specific-amount requirement for settlement offers. There, the plaintiff served the City of Mesa with a notice of claim offering to settle his personal injury claim for "$1,000,000 or the applicable [insurance] policy limits, whichever are greater." *Id.* at 298 ¶ 2 (alteration in original). In deciding whether this offer satisfied § 12-821.01(A), we first explained that "[t]he notice of claim requirements serve important functions" by "permit[ting] the public entity to investigate the claim, assess liability, consider settlement before

litigation, and budget for possible future litigation." *Id.* at 300 ¶ 9. "To further these goals, claimants must strictly comply with the statute." *Id.*

**¶8** We then described the specific-amount requirement as "clear and unequivocal," explaining that it "unmistakably instructs claimants to include a particular and certain amount of money that, if agreed to by the government entity, will settle the claim." *Id.* ¶ 10 (quoting *Deer Valley Unified Sch. Dist. No. 97 v. Houser*, 214 Ariz. 293, 296 ¶ 9 (2007)). The notice of claim must leave "no room for debate" about the amount offered to settle the claim. *Id.* The offer must either state a specific amount or supply a basis that lets the public entity calculate that amount precisely. *See id.* ¶¶ 10–11.

**¶9** Applying these principles, the Court concluded that the plaintiff's offer did not comply with § 12-821.01(A). *Id.* at 302 ¶ 21. The public entity had several insurance policies that might have applied, and these variables made it impossible for the City of Mesa to identify a specific settlement amount from the notice of claim alone. *See id.* at 301–02 ¶¶ 14, 16–20.

**¶10** Our decision in *City of Mesa* was not a sea change. It rested on years of opinions stressing that claimants must strictly adhere to § 12-821.01(A)'s requirements or be barred from maintaining a lawsuit seeking compensation for their claims. *See Deer Valley*, 214 Ariz. at 299 ¶ 21 (rejecting the argument that § 12-821.01(A)'s specific-amount requirement is a "reasonableness standard" rather than one requiring a sum certain); *Falcon ex rel. Sandoval v. Maricopa County*, 213 Ariz. 525, 527 ¶ 10 (2006) ("Actual notice and substantial compliance do not excuse failure to comply with the statutory requirements of A.R.S. § 12-821.01(A)."); *Humphrey v. State*, 249 Ariz. 57, 63 ¶ 20 (App. 2020) (recognizing that "[i]f a plaintiff does not strictly comply with § 12-821.01(A)" he cannot maintain a lawsuit); *Swenson v. County of Pinal*, 243 Ariz. 122, 125 ¶ 7 (App. 2017) ("Strict compliance with . . . [§] 12-821.01(A) is generally required.").

**¶11** Terborg asks us to overturn these cases, relax the strict-compliance standard, and instead hold that a claimant satisfies § 12-821.01(A) by substantially complying with its requirements. We decline to do so. Section 12-821.01(A) requires a notice of claim to state "a specific amount for which the claim can be settled." A specific amount is precisely that. A claimant cannot satisfy this requirement by providing

two amounts or otherwise providing an imprecise figure, any more than he could satisfy it by providing none at all.

**¶12** Moreover, strict compliance best promotes § 12-821.01(A)'s purpose. *See Aesthetic Prop. Maint. Inc. v. Capitol Indem. Corp.*, 183 Ariz. 74, 77 (1995) (explaining that whether an actor must strictly or substantially comply with a statute depends on which standard "best promotes" the Legislature's purpose in enacting the statute). Before a public entity can decide, within sixty days, whether to accept a claimant's settlement offer, it must first use that same window to investigate the claim and assess liability. *See City of Mesa*, 258 Ariz. at 300 ¶ 9; § 12-821.01(E) (providing that a claim is deemed denied if not accepted within sixty days after the claim is filed or explicitly denied before then); *James*, 253 Ariz. at 305 ¶ 21 (stating that § 12-821.01(A)'s requirements "allow the public entity to investigate and assess liability, . . . permit the possibility of settlement prior to litigation, and . . . assist the public entity in financial planning and budgeting" (quoting *Deer Valley*, 214 Ariz. at 295 ¶ 6)). A claim that instead requires guesswork or investigation to determine the claimant's settlement offer would frustrate that effort and defeat § 12-821.01(A)'s express requirements and purpose alike.

**¶13** Terborg argues that A.R.S. § 1-211(B)'s command to "liberally construe[]" statutes to "effect their objects and to promote justice" is inconsistent with requiring strict compliance with § 12-821.01(A). We disagree. Strict compliance can serve a statute's purpose and promote justice as defined by the Legislature. *See Aesthetic Prop. Maint.*, 183 Ariz. at 77 (citing § 1-211(B) and noting that "we have required strict compliance when less would defeat a statute's purpose"). Nor does holding claimants to that standard create any injustice. Section 12-821.01(A)'s requirements are not a trap for the unwary. They are easy to satisfy: a claimant need only state one certain, unequivocal amount and provide its factual basis. *See Deer Valley*, 214 Ariz. at 296 ¶ 9. Indeed, the Legislature made this choice in the same article in which it waived sovereign immunity from suit—a choice the Constitution commits exclusively to the Legislature. *See* A.R.S. §§ 12-820 to -826 (providing for actions against public entities or public employees); Ariz. Const. art. 4, pt. 2, § 18 ("The legislature shall direct by law in what manner and in what courts suits may be brought

against the state."). It is up to the Legislature, not this Court, to relax the strict-compliance standard it chose.

**¶14** The Town argues that *City of Mesa* applies here and should lead to the same result. It contends that because Terborg did not specify in his notice of claim whether he was willing to settle for $100,000 or $250,000, and provided no basis for calculating a settlement amount, he failed to comply with § 12-821.01(A). The Town further argues that the court of appeals made an "end run" around *City of Mesa* by resorting to contract-interpretation principles to resolve the conflict between the written and numerical descriptions of the settlement amount, rather than recognizing that the conflict itself rendered the amount non-specific and uncertain. *See City of Mesa*, 258 Ariz. at 301 ¶ 16 (recognizing that a statutorily compliant notice of claim must permit the public entity to be certain about the settlement amount).

**¶15** Terborg acknowledges the conflicting settlement amounts in the notice of claim but characterizes the conflict as a "clerical error" and argues that contract principles should be used to recognize and rectify that mistake. He asserts that "common sense" and the common law support treating text outside a parenthetical as controlling over the parenthetical text. Lastly, he contends that any "technical error" in the notice of claim should not bar his lawsuit, and that the Town should have asked him to correct this "obvious typographical error."

**¶16** We agree with the Town. Section 12-821.01(A) sets a fixed threshold for notices of claim: a public entity must be able to identify a claimant's settlement offer from the notice of claim itself. The statute does not require a public entity to apply contract principles to discern the claimant's intent, investigate that intent, or assist the claimant in crafting a statutorily compliant notice. *See Backus v. State*, 220 Ariz. 101, 107 ¶ 28 (2009); *Yahweh v. City of Phoenix*, 243 Ariz. 21, 23 ¶ 12 (App. 2017). A notice of claim is not a contract; it is a statutory prerequisite for filing a damages lawsuit against a public entity. *See James*, 253 Ariz. at 304 ¶ 19 (stating that whether a notice of claim satisfies § 12-821.01 is "a matter of statutory interpretation, not contract law").

**¶17** Additionally, importing contract-interpretation principles to decide whether a notice of claim complies with § 12-821.01(A) would invite the kind of side litigation over a claimant's subjective intent that the

statute's "specific amount" requirement is designed to avoid. This is especially concerning because Arizona courts are not limited to the four corners of a document to determine a party's intent, even when the document appears clear. *See Taylor v. State Farm Mut. Auto. Ins. Co.*, 175 Ariz. 148, 153 (1993) (concluding that "the judge cannot be restricted to the four corners of the document" in discerning the parties' intended meaning). Applying that approach to a notice of claim would thus permit—indeed, may require—a court to look beyond the notice itself to extrinsic evidence of what the claimant subjectively meant, turning a threshold statutory requirement into a fact-bound dispute over intent that must be resolved before the underlying claim is ever reached. That is the opposite of what § 12-821.01(A) requires: a specific settlement amount the entity can identify from the notice alone, within sixty days, without wading into a dispute over what the claimant privately intended.

**¶18** We therefore disagree with Terborg and the court of appeals that the Town was required to interpret Terborg's notice of claim under contract principles or through the lens of "settled understandings of legal style." *See Terborg*, 261 Ariz. at 180 ¶¶ 13–14. Rather, the statute requires a claimant to state a single, identifiable amount in the notice of claim that unequivocally communicates what amount will resolve the claim. *See City of Mesa*, 258 Ariz. at 300 ¶ 10.

**¶19** We distinguish *Yollin v. City of Glendale*, 219 Ariz. 24 (App. 2008), which the court of appeals relied on for the proposition that "[w]e can measure compliance with § 12-821.01 with reference to contract law principles." *See Terborg*, 261 Ariz. at 179 ¶ 9. *Yollin* invoked contract principles only to confirm that the claimant's notice of claim constituted an unambiguous offer, not to discern which of two conflicting amounts a claimant intended as a settlement offer. 219 Ariz. at 31 ¶ 19; *see also Yahweh*, 243 Ariz. at 23 ¶ 8 (citing contract principles only to determine whether a notice of claim constituted an offer). Terborg and the court of appeals, by contrast, invoke contract principles and legal styling to discern Terborg's intent and thus "fix" a notice that does not comply with § 12-821.01(A). That goes too far. *See James*, 253 Ariz. at 304 ¶ 19.

**¶20** Undoubtedly, as Terborg argues, he made a clerical error in stating the settlement-offer amount. But that mistake was not merely a "technical error"; it resulted in noncompliance with § 12-821.01(A), and its clerical nature does not excuse that noncompliance. And as the Town

notes, the factual basis Terborg gave for the settlement amount was broad enough to fit either figure equally well.

**¶21** The authorities Terborg cites for Arizona's general policy favoring deciding cases on the merits do not change that conclusion. *See* Ariz. Const. art. 6, § 27 (prohibiting a court from reversing a judgment or order "for technical error in pleadings or proceedings when upon the whole case it shall appear that substantial justice has been done"); Ariz. R. Civ. P. 61 (directing courts to disregard errors that do not affect a party's substantial rights); *Moqui, Inc. v. Ambrose & Rosenfield & Co.*, 21 Ariz. App. 565, 568 (1974) ("The appellate courts of this state have announced many times the policy that lawsuits should be tried on the merits and not on technicalities."). Section 12-821.01(A) is a statutory prerequisite for filing suit, not a "pleading or proceeding" within the meaning of the constitutional provision or court rules. Because it is a specific claims-bar statute, it controls over the general policies favoring harmless error review of cases already in litigation.

**¶22** From the notice itself, a reader cannot determine whether the error lies in the written amount, "one hundred thousand dollars," or the numerical amount, "$250,000." Terborg and the court of appeals reason that the parentheses surrounding $250,000 show that the numerical amount may be disregarded. *See Terborg*, 261 Ariz. at 180 ¶ 14. But as explained, § 12-821.01(A) does not require a public entity to resort to principles of contract interpretation or legal styling to discern a claimant's intended settlement offer or to determine what significance, if any, to assign information placed in parentheses.

**¶23** Even assuming, as Terborg contends, that the common law adopted via A.R.S. § 1-201 provides that words prevail over numbers, that canon only helps a court decide which of two conflicting figures the drafter intended. Section 12-821.01(A) does not require a public entity to inquire into that issue at all. Applying the canon would therefore be inconsistent with § 12-821.01(A), meaning the common law would not apply. *See* A.R.S. § 1-201 (adopting the common law insofar as it is not "repugnant to or inconsistent with the . . . laws of this state"). And unlike Arizona's negotiable instruments statutes, neither § 12-821.01 nor any other statute gives words precedence over numbers for a notice of claim. *See* A.R.S. § 47-3114 (providing that if a negotiable instrument contains contradictory terms, "words prevail over numbers"). It also bears noting that a canon

used to resolve inconsistencies through interpretation cannot be reconciled with a statute that places the burden on the claimant to avoid such inconsistencies altogether by stating a specific settlement amount. § 12-821.01(A).

**¶24** Finally, we reject Terborg's suggestion that the public entity should investigate the meaning of a notice of claim per public policy. Although a public entity may ask a claimant to clarify a claim or provide additional information, there is nothing in § 12-821.01 that requires it to do so. Moreover, as previously noted, our case law has clearly held that "[p]ublic entities in Arizona are not duty-bound to assist claimants with statutory compliance." *Yahweh*, 243 Ariz. at 23 ¶ 12; *see also Backus*, 220 Ariz. at 107 ¶ 28. Although the Town easily could have asked Terborg to clarify his intention, the law did not require it to do so. The Legislature, not this Court, is charged with changing the public policy reflected by § 12-821.01(A).

## CONCLUSION

**¶25** For the foregoing reasons, we vacate the court of appeals' opinion and affirm the superior court's summary judgment for the Town.