

LEGAL UPDATES

PUBLISHED: JANUARY 31, 2023

Service

Public Law

Professionals

KATHARINE D. DAVID
HOUSTON:
713.525.6258
KATE.DAVID@
HUSCHBLACKWELL.COM

SEBASTIAN WAISMAN
HOUSTON:
713.647.6800
SEBASTIAN.WAISMAN@
HUSCHBLACKWELL.COM

BEN STEPHENS
HOUSTON:
713.525.6263
BEN.STEPHENS@
HUSCHBLACKWELL.COM

Texas Supreme Court Maintains Tort Claims Act's Minimum Cap for Governmental Entities

On December 30, 2022, the Supreme Court of Texas published its opinion in *Gulf Coast Center v. Curry*, concluding that the trial court had no jurisdiction to enter an award of \$216,000 in a personal injury action against a public community center. Although the Texas Tort Claims Act waives a public entity's immunity from suit and authorizes recovery on certain personal injury claims, the Act imposes damages caps that vary based on the type of public entity involved. Damages against a unit of local government or an emergency service organization are capped at \$100,000, while damages against a state agency or municipality are capped at \$250,000.

Here, neither party established at trial in which category the community center belonged, nor did they establish which damages cap applied. Nevertheless, the Supreme Court concluded that the Tort Claims Act waives a public entity's immunity from suit only to the extent of the amount in which recovery is authorized. Thus, because the plaintiff must demonstrate that the trial court has jurisdiction by establishing that immunity has been validly waived, the plaintiff also has the burden of establishing that recovery is authorized beyond the minimum allowable damages of \$100,000. The Plaintiff's failure to do so here deprived the trial court of jurisdiction to enter an award in excess of \$100,000.

What this means to you

Public entities in Texas now enjoy stronger protection from damages exposure in personal injury actions. Personal injury plaintiffs must affirmatively plead and prove that an entity is a state agency or municipality under the Tort Claims Act to recover more than \$100,000. For best results, public entities

should retain counsel with experience in briefing and arguing issues of sovereign and governmental immunity.

Contact us

If you have questions about this update, or how it might affect your operations, contact Kate David, Russell Roden, Sebastian Waisman, Ben Stephens or your Husch Blackwell attorney.