

New York Court of Appeals Holds That Child Victims Act Claims Brought Against the State of New York Must Meet Statutory Substantive Pleading Requirements

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In a unanimous ruling, the New York Court of Appeals held that the New York State Legislature did not alter the substantive pleading requirements of Section 11(b) of the Court of Claims Act (the “Act”) for claims brought against the State of New York (the “State”) pursuant to the New York Child Victims Act (“CVA”).

In *Chi Bartram Wright v. State of New York*, the plaintiff alleged that between 1986 and 1990, when he was twelve to fifteen years old, he was repeatedly sexually assaulted by various men at a state-owned performance arts facility located in Albany, New York. The complaint filed in the Court of Claims failed to identify any of the men who allegedly assaulted plaintiff, the specific months and dates of the alleged assaults, why plaintiff was in the company of the alleged abusers multiple times over a four year period, or what repeatedly brought plaintiff to the performance arts facility. Instead, the complaint generally alleged that during the alleged time period, plaintiff was assaulted by various State employees and members of the general public while on the state-owned premises. Plaintiff sought over \$75 million in damages based on various negligence-based causes of action, including negligent hiring, retention, direction, and supervision.

The complaint was filed in 2021 pursuant to the CVA, which temporarily relaxed the statute of limitations for asserting civil claims of childhood sexual abuse and provided a two-year lookback window during which previously time-barred civil actions could be filed.

The Court of Claims granted the State’s motion to dismiss the complaint, agreeing that the CVA had not relaxed the Act’s pleading requirements “and that a claim brought under [section 11(b) of the Act] must plead the date of the underlying conduct with sufficient definiteness to enable the State to promptly investigate its claim and to ascertain its potential liability.”

Plaintiff appealed the Court of Claims’s decision to the Appellate Division for the Third Department, which reversed the Court of Claims and held that the four-year period alleged in the complaint satisfied the Act’s requirements because the alleged acts occurred many decades ago when the plaintiff was a child. The Appellate Division further opined that requiring more specific or exact dates would not better enable the State to investigate the allegations. The Appellate Division further concluded that the general allegations were “sufficient to provide [the State] with an indication of the

manner in which [Wright] was injured and how [the State] was negligent.” The Appellate Division granted the State’s motion for leave to appeal to the Court of Appeals.

In its appeal to the Court of Appeals, the State argued that the complaint should be dismissed for lack of subject matter jurisdiction due to its failure to comply with the specific pleading requirements of Section 11(b) of the Act, which requires that a claim “shall state the time when and place where such claim arose, the nature of the same, the items of damage or injuries claimed to have been sustained and . . . the total sum claimed” (Court of Claims Act § 11 [b]). The Court of Appeals agreed, holding that the complaint lacked the sufficient details required by Section 11(b) of the Act and, therefore, must be dismissed.

In rendering its decision, the Court of Appeals stated that the “CVA lacks any indication, let alone a clear expression, that the Legislature intended to exempt CVA claims from [S]ection 11(b)’s conditions; indeed, it does not amend or even mention the Act’s pleading requirements.” The Court further noted that the Legislature’s silence in the CVA as to Section 11(b)’s pleading requirements contrasted “sharply” with the Legislature’s amendment of Section 10 of the Act “by waiving the notice of claim requirement for claims revived by the CVA.” The Court further noted that if the Legislature had wanted to lower the pleading requirements of Section 11 and adjust the conditions on the State’s waiver of sovereign immunity for certain classes of claims, it knew how to do so as evidenced by its adoption of different pleading requirements for claims of unjust conviction and imprisonment. Accordingly, the Court held that Section 11(b)’s pleading requirements must be applied to CVA claims “in the same manner we would apply them to any other claim against the State.”

The Court of Appeals’ decision is a reminder that the suits brought against the State must meet the Act’s heightened pleading requirements. The Court of Appeal’s decision that the CVA does not alter the Act’s pleading requirements could not only have implications for other CVA lawsuits brought against the State that rely on general allegations, but also actions commenced under the Adult Survivors Act, which, like the CVA, temporarily provided a lookback window to allow previously time-barred claims to be filed. Additionally, it remains to be seen whether the Court of Appeal’s holding that the CVA does not create a different pleading standard will impact cases not involving the State that are filed pursuant to the New York CPLR’s notice-based pleading requirements.

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