

IN THE SUPREME COURT, STATE OF WYOMING

2020 WY 20

OCTOBER TERM, A.D. 2019

February 13, 2020

LANTZ-BOGGIO ARCHITECTS, P.C.,

Petitioner,

v.

CAMPBELL COUNTY HOSPITAL
DISTRICT,

Respondent.

S-19-0209

*Original Proceeding
Petition for Writ of Review
District Court of Campbell County
The Honorable John R. Perry, Judge*

Representing Petitioner:

J. David Horning, Horning, Horning & McGrath, LLC, Gillette, Wyoming;
Christopher A. Taravella, Montgomery Little & Soran, P.C., Greenwood Village,
Colorado. Argument by Mr. Horning.

Representing Respondent:

Tom C. Toner, Yonkee & Toner, LLP, Sheridan, Wyoming.

Before DAVIS, C.J., and FOX, KAUTZ, BOOMGAARDEN, and GRAY, JJ.

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BOOMGAARDEN, Justice.

[¶1] We granted Lantz-Boggio Architects, P.C.’s petition for writ of review to answer whether:

a claim which would otherwise be barred by the doctrine of sovereign immunity for failure to comply with the claims procedure of the Wyoming Governmental Claims Act [may] nonetheless be asserted as a counterclaim in a government-initiated lawsuit if it arises out of the same transaction or occurrence that is the subject matter of the government’s claim and is asserted to reduce or defeat the government’s claim[.]

[¶2] We conclude, and the parties agree,¹ that *Ruppenthal v. State* unequivocally answers this question, and the answer is yes:

a claim which would otherwise be barred by the doctrine of sovereign immunity may be asserted as a counterclaim in a government-initiated lawsuit if it “arises out of the transaction or occurrence that is the subject matter of the opposing party’s claim,” W.R.C.P. 13(a), and is asserted to reduce or defeat the government’s claim.

849 P.2d 1316, 1321 (Wyo. 1993). We therefore remand this case to the district court for further proceedings consistent with this opinion.

¹ Counsel for Lantz-Boggio and Campbell County Hospital District agreed at oral argument that *Ruppenthal* clearly permitted Lantz-Boggio to plead a recoupment counterclaim against the Campbell County Hospital District in the manner detailed in the question presented.