

CASE STUDIES

Victory in Santa Fe: A Landmark Defense Against 911 Surcharge Claims

Telecommunications

Client industry: Telecommunications

Type of case: Qui tam allegations brought under New Mexico's Fraud Against Taxpayers Act

Court: Santa Fe, New Mexico State Court

Amount in dispute: Upwards of one hundred million dollars

Result: 11-1 verdict in favor of the clients on all counts

Baker Donelson successfully defended a global telecommunications company against qui tam allegations brought under New Mexico's Fraud Against Taxpayers Act, resulting in a decisive verdict that favored the client on all counts and is considered a major positive development among industry sector insiders.

Allegations in the case included a purported underassessment of pass-through 911 surcharges by the telecommunication carriers under regulations adopted under New Mexico's 911 laws with respect to ISDN/PRI business wireline telephone services delivered to business customers utilizing private branch exchanges. Inclusive of penalties and other exposure under the New Mexico act, the client's total exposure was upwards of one hundred million dollars.

The plaintiff alleged that 2004 changes in the regulations required providers to assess certain types of business customers based upon internal extensions, rather than outward calling capacity. The result of this interpretation was a potentially massive increase in the tax burden faced by various business customers in New Mexico and a potential nine-figure exposure for the client telecommunications providers (due in no small part to the absence of any applicable limitations period).

Following a contentious two-week state court jury trial in Santa Fe, the 12-person jury rendered an 11-1 verdict in favor of our client on all counts. The allegations advanced against our client, although tied to unique provisions of New Mexico law, had mirrored claims advanced by the same plaintiff group in other cases around the country, and the trial was closely watched by leading national and international telecommunications providers operating in the United States. The Baker Donelson trial team successfully rebuffed adverse technical, regulatory, and emergency services experts from New York City, Minnesota, and New Mexico, and overcame repeated efforts by the plaintiff to tie various purported deficiencies with New Mexico 911 services to an alleged underassessment of 911 surtaxes over multiple decades.

The decisive verdict, zeroing the plaintiff on all counts, was a significant victory for the client and is considered a major positive development among industry sector insiders.