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What You Don't Know (and Need to Know) about the Government Claims Act

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Speakers:

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Conference Reference Materials

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What You Don't Know & Need to Know about the Government Claims Act

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Claim Basics

- Government Claims Act (formerly Government Tort Claims Act): Gov. Code, Division 3.6, § 810 et seq.
- Part 3, Claims procedure: Gov. Code, § 900 et seq.
- Gov. Code, § 945.4: Unless excused, no suit for money or damages may be brought against a public entity on a cause of action that requires a claim unless a claim was presented in accordance with the Act's requirements and has been acted on or deemed rejected.
- Bottom line: If claim required, need timely claim (or excuse) *and* timely lawsuit.

Purpose of the Claim

- To provide the public entity “sufficient information to enable it to adequately investigate claims and to settle them, if appropriate, without the expense of litigation.” (*Stockett v. Assn. of Cal. Water Agencies Joint Powers Ins. Authority* (2004) 34 Cal.4th 441, 446.)
- To “enable the public entity to engage in fiscal planning for potential liabilities and to avoid similar liabilities in the future.” (*City of Stockton v. Superior Court* (2007) 42 Cal.4th 730, 738.)

Excluded Causes of Action

- Federal Civil Rights Acts (42 U.S.C. § 1983.)
- Fair Employment and Housing Act (Gov. Code, § 12900-12996.)
- Inverse Condemnation (Cal. Const. Art. I, § 19.)
- Suits against UC Regents (Gov. Code, § 943.)
- Whistleblower Protection Act (gov. Code, § 905.2, subd. (h).)
- Workers' Compensation.
- Non-Monetary Causes of Action (Gov. Code, § 814.)
- State Agency Contract Claims (Gov. Code., § 930.)

Two Categories of Claims and Deadlines to Present Them

- 6-month claims: Injury to person, property or crops.
- 1-year claims: Any other cause of action.

(Gov. Code, § 911.2, subd. (a).)

Claim Deadlines vs. Statutes of Limitation

- Claims presentation deadlines aren't statutes of limitations. Statute of limitations is time to file lawsuit. (*Shirk v. Vista Unified School Dist.* (2007) 42 Cal.4th 201, 209.)
- Why difference matters:
 - SOL is *affirmative defense*, defendant BOP; claim compliance/excuse is *element of cause of action*, plaintiff BOP. (*Shirk*, at p. 209.)
 - Statutes and Executive Orders that extend SOLs don't necessarily apply to claim deadlines. (E.g., *Shirk* at 214 [Former CCP § 340.1].)

When Claim Deadlines Start Running

- From accrual.
- Gov. Code, § 901:
 - Same accrual date as for SOL as to private defendant.
 - Exception: equitable indemnity claims.
- Where delayed discovery would apply to accrual under the SOL, it also applies to claim deadline.

When 6-Month Claim Late

- To preserve argument claim late, entity must give notice warning of late-claim remedies within 45 days+ of claim presentation. (Gov. Code, §§ 911.3, 915.2.)
- Application for Leave to Present Late Claim within 1 year of accrual; some statutory grounds for tolling. (Gov. Code, §§ 911.4-911.8.)
- If Application denied, Petition to Superior Court for Relief. (Gov. Code, § 946.6.)
- Must follow late-claim procedure strictly, even if would otherwise be entitled to relief. (*J.M. v. Huntington Beach UHSD* (2017) 2 Cal.5th 648.)

Grounds for Late-Claim Relief

- Same for Late-Claim Application (Gov. Code, § 911.6) and Late-Claim Petition (Gov. Code, § 946.6).
- Expanded in 2021.
- Mistake/inadvertence/surprise/excusable neglect.
- Minor throughout claim presentation period; *or* during part of claim period and application within six months of turning 18 or within 1 year of accrual, whichever first.
- Physical/mental incapacity throughout claim period, and by reason of that disability failed to present timely claim.

Grounds for Late-Claim Relief

- Physical/mental incapacity during *part* of claim period; failure due to incapacity; and application presented within 6 months of incapacity ending or 1 year from accrual, whichever first.
- Claimant died during claim period.

Government Claim must contain:

- Date
- Place
- Other circumstances of the occurrence or transaction which gave rise to the claim
- General description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim.
- Does not need the detail and specificity of a pleading, but must “fairly describe what [the] entity is alleged to have done.” (*Stockett v. Assn. of Cal. Water Agencies Joint Powers Ins. Authority* (2004) 34 Cal.4th 441, 446.)
- Factual basis for recovery in the complaint must be “fairly reflected” in the claim. (*Stockett*, at p. 447.)
- Signed by claimant or “some person on his behalf.”
(Gov. Code, § § 910, subds. (c) & (d), 910.2.)

Substantial Compliance; Claim as Presented

- If attempt to comply with claim requirements, but minor technical deviations (e.g., factual mistake), substantial compliance.
- Even if complete failure to meet requirements, document may be “claim as presented” if:
 - Presented to statutorily-designated recipient; and
 - Puts public entity on notice that person is making claim for damages that, if not satisfied, will result in litigation.
- Entity must respond to claim or “claim as presented” with Notice of Insufficiency within 20+ days (and not act on it for 15 days) to preserve argument claim insufficient. (Gov. Code, §§ 910.8, 915.2.)

How Claim Presented (Gov. Code, § 915)

- Deliver it by hand to statutorily-designated recipient.
- Mail to statutorily-designated recipient at principal office.
- For local public entity only: If expressly authorized by entity's ordinance/resolution, electronic presentation in manner specified by ordinance/resolution.
- Proper recipients differ for local public entity, state, judicial branch entities.
- Must be presented to proper recipient, or actually received by proper recipient within claim period. (Gov. Code, § 915, subd. (e); *DiCampli-Mintz v. County of Santa Clara* (2012) 55 Cal.4th 983, 997.)

Statute of Limitations

- If claim is rejected with Gov. Code, § 913 notice, claimant must file an action within 6 months after delivery or mailing of the notice of rejection. (Gov. Code, § 945.6, subd. (a)(1).)
- If public entity fails to provide statutory notice under Gov. Code, § 913, the statute of limitations is extended to 2 years after the cause of action accrues. (Gov. Code, § 945.6.)
- If Late-Claim Petition Granted, new statute of limitations: 30 days from date court orders relief. (Gov. Code, § 946.6, subd. (e).)

Recent Case Developments

- Late-Claim Relief
- Statutes of Limitations
- Responses to Claims
- Claim Variance
- Timing of Complaint
- Unauthorized Claim Presentation

Late Claim Relief

- *Lincoln Unified School Dist. v. Superior Court (Jones)* (2020) 45 Cal.App.5th 1079: Court lacks jurisdiction to grant late-claim petition asserting “reason” for untimeliness not set forth in late-claim application.
- *N.G. v. County of San Diego* (2020) 59 Cal.App.5th 63: Court ruling on late-claim petition arguing excusable neglect not bound to accept undisputed expert declaration that petitioner acted as a reasonable person under the circumstances (sexual assault) in failing to present timely claim; that is opinion on ultimate issue in case.
- *Coble v. Ventura County Health Care Agency* (2021) 73 Cal.App.5th 417: COVID Executive Orders extended claim period 120 days for claims accruing between 3/21/20 and 6/30/21. Did not extend 1-year deadline for late-claim applications.

Late Claim Relief

- *Simms v. Bear Valley Community Health Care Dist.* (2022) 80 Cal.App.5th 391: Split in authority on whether late-claim petition may be granted on ground claim is actually timely.

Caution: Government Claims Act does not extend more specific limitations period

If more specific statute of limitations applies, then more specific statute controls.

Shah v. Dept. of Human Resources (2023) 92 Cal.App.5th 590 (1 year limitations relating to actions against CalHR under Gov. Code, § 19815.8 applies, barring plaintiff's complaint for breach of contract, unjust enrichment, misappropriation of trade secrets filed 13 months post-injury).

Caution: Government Claims Act does not extend time to bring suit under MICRA

- Medical Injury Compensation Reform Act (MICRA) requires medical negligence be filed within 3 years after date of injury *or* 1 year after plaintiff discovers, or through the use of reasonable diligence should have discovered the injury, *whichever occurs first*. (Code Civ. Proc., § 340.5.)
- *Carrillo v. County of Santa Clara* (2023) 89 Cal.App.5th 227:
 - Gov. Code, § 945.6 (6 months)
 - Code Civ. Proc., § 340.5 (1 year/3 years).

Response to Claim

- *Andrews v. Metropolitan Transit System* (2022) 74 Cal.App.5th 597: Notice denying claim on merits does not trigger 6-month statute of limitations unless it sets forth notice prescribed by Gov. Code, § 913.
- Including: “You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.”
- *Even if* claimant is already represented by an attorney!

Claim Variance Defense

- Claim variance is generally raised in demurrer, motion for judgment on the pleadings, or motion for summary judgment.
- Claim variance was raised right before trial. (*Plata v. City of San Jose* (2022) 74 Cal.App.5th 736.)
- City raises claim variance in motion to decertify class action. Court agrees that plaintiffs did not put City on notice about tiered water rates and structure, which is a variance of claim.

Claim Variance Defense

Hernandez v. City of Stockton (2023) 90 Cal.App.5th 1222

Claim

- Plaintiff tripped and fell on dangerous condition, i.e., *uplifted* sidewalk.

Deposition

- Plaintiff testified he stepped into a hole for a tree, but no tree was in it.
- Plaintiff admitted his fall was not caused by “uplifted” sidewalk.
- MSJ granted on grounds of claim variance.

Claim Variance Defense

Hernandez v. City of Stockton (2023) 90 Cal.App.5th 1222

Plaintiff argues:

- Testimony does not alter theory of the nature of the dangerous condition in the claim.
- City engineer testified he knew the plaintiff's claim was based on plaintiff tripping in a hole created by an empty tree well.

Purpose of Claim:

- Complaint may not shift the allegations and premise liability on facts that fundamentally differ from those specified in the claim.
- Claim statutes must be satisfied even if public entity has knowledge of the facts or circumstances surrounding the claim. (*Dicampli-Mintz v. County of Santa Clara* (2012) 55 Cal.4th 983, 990.)

Timing of Complaint

- Split in authority on compliance with Gov. Code, § 945.4 (claim must be presented and denied before lawsuit filed).
- *Lowry v. Port San Luis Harbor District* (2020) 56 Cal.App.5th 211: Complaint filed same date as late-claim application presented. Although application deemed granted, complaint was premature (filed before claim denied). Could not be cured by amendment. Holds *DiCampli-Mintz, supra*, 55 Cal.4th 983 disapproved earlier case law holding premature complaints could be effective.
- *Malear v. State* (2023) 89 Cal.App.5th 213: Complaint filed before claim denied premature, but cured when amended as matter of right after claim denial and before suit served. Rejects *Lowry's* interpretation of *DiCampli-Mintz*.

Claim Presentation: Claim shall be presented by the claimant *or* by a person acting on his or her behalf (Gov. Code, § 910.)

- Unauthorized and unratified claim is a nullity under GCA and has no legal effect, and does not start 6-month statute of limitations. (*Cavey v. Tualla* (2021) 69 Cal.App.5th 310, 343.)
- Conversely, if a claimant does not *repudiate* an unauthorized claim, or seek leave to present a late claim, the claimant is bound by the claim. (*County of Los Angeles v. Superior Court* (2005) 127 Cal.App.4th 1263, 1271.)
- Repudiation cannot cause public entity undue prejudice. (*Cavey*, at p. 343.)

Thank You!

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