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INSIGHT · CIVIL RIGHTS

The Government Claims Act: The Six-Month Deadline for State Civil-Rights Claims and the Late-Claim Path

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Government Code section 911.2 sets a six-month presentation period for personal-injury claims against public entities.

A civil-rights plaintiff suing a California city, county, or district usually pleads federal and state claims together. The state claims carry a prerequisite the federal claim does not: a written government claim, presented within a short statutory period. This memorandum sets out that period, the late-claim procedure, and the consequences of noncompliance, as of November 2026.

I. Question Presented

What claim-presentation requirements govern state-law damages claims, including Bane Act claims, against a local public entity, and what relief is available when the six-month deadline is missed?

II. Short Answer

A claim for personal injury must be presented to the entity within six months of accrual. Suit may not be filed until the claim is acted on or deemed rejected. A claimant who misses the six-month period may apply for leave to present a late claim within a reasonable time not exceeding one year after accrual, and, if leave is denied, may petition the superior court for relief within six months. Relief is mandatory on specified grounds, including excusable neglect, minority, incapacity, and death, subject to a prejudice defense on the neglect ground. Failure to satisfy these requirements bars the state claims against the entity and, ordinarily, against its employees. It does not bar a claim under 42 U.S.C. section 1983.

III. Governing Law

A. Scope and Purpose

Government Code section 905 requires presentation of "all claims for money or damages against local public entities." In *City of Stockton v. Superior Court* (2007) 42 Cal.4th 730, the Supreme Court held that the requirement reaches contract claims as well as torts, and adopted the name "Government Claims Act" for that reason. The court described the purpose of the claims statutes as providing "the public entity sufficient information to enable it to adequately investigate claims and to settle them, if appropriate, without the expense of litigation." A damages claim under Civil Code section 52.1 against a local entity falls within the statute's text.

B. The Presentation Deadline

Government Code section 911.2, subdivision (a), requires that a claim "relating to a cause of action for death or for injury to person or to personal property" be presented "not later than six months after the accrual of the cause of action." Other claims must be presented within one year. The claim must state the claimant's name and address, the date, place, and circumstances of the occurrence, a general description of the injury, the names of responsible employees if known, and the amount claimed; if the amount exceeds $10,000, no dollar figure is stated, and the claim instead indicates whether the case would be a limited civil case (Gov. Code, § 910).

C. The Bar and the Suit Deadline

Under Government Code section 945.4, "no suit for money or damages may be brought against a public entity" on a claim subject to the Act "until a written claim therefor has been presented to the public entity" and acted on or deemed rejected. Section 945.6, subdivision (a), then fixes the time to sue: six months after written notice of rejection is personally delivered or mailed under section 913, or, if no such notice is given, two years from accrual.

In *Shirk v. Vista Unified School Dist.* (2007) 42 Cal.4th 201, the Supreme Court described timely presentation as "a condition precedent to plaintiff's maintaining an action against defendant," and thus "an element of the plaintiff's cause of action." A complaint that does not allege timely presentation, or facts excusing it, is subject to general demurrer.

IV. Analysis

A. Late-Claim Relief: The Administrative Step

When the six-month period is missed, the claimant may apply to the entity for leave to present a late claim. The application must be presented "within a reasonable time not to exceed one year after the accrual of the cause of action," must state the reason for the delay, and must attach the proposed claim (Gov. Code, § 911.4, subd. (b)). Section 911.4, subdivision (c), excludes from that one-year computation the time during which the injured person is mentally incapacitated without a guardian or conservator, and specified periods of juvenile detention or dependency. Minority alone is not among the listed exclusions.

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The board must grant or deny the application within 45 days, a period the parties may extend by written agreement; inaction is a deemed denial (Gov. Code, § 911.6). The board must grant the application if the delay resulted from "mistake, inadvertence, surprise, or excusable neglect" and the entity was not prejudiced; if the claimant was a minor throughout the six-month period; if the claimant was physically or mentally incapacitated throughout that period and failed to present a claim for that reason; or if the claimant died before the period expired. Separate provisions address minority or incapacity during only part of the period, and require the application within six months after the disability ends or one year after accrual, "whichever occurs first."

B. Late-Claim Relief: The Judicial Step

If the application is denied or deemed denied, the claimant may petition the superior court within six months for relief from section 945.4 (Gov. Code, § 946.6). The petition must show the application and its denial, the reason for the late claim, and the information section 910 requires. The court must relieve the petitioner if the application was made within a reasonable time not exceeding the one-year limit and one of the statutory grounds applies. The grounds track section 911.6. On the excusable-neglect ground, relief is unavailable if the entity establishes that "it would be prejudiced in the defense of the claim." If relief is granted, suit must be filed within 30 days of the order. Sections 911.6 and 946.6 were last amended effective January 1, 2022 (Stats. 2021, ch. 218).

C. Defective but Timely Claims

City of Stockton distinguished two doctrines. "Substantial compliance demands at least some compliance with all the statutory claim requirements." A "claim as presented" may be shown on a lesser showing: it is a document that discloses a claim which, if not resolved, "will result in a lawsuit against the entity." When a document qualifies as a claim as presented, the entity may give written notice of its insufficiency within 20 days under section 910.8. If it does not, defenses based on its defects are waived under section 911. The court held that correspondence that did not indicate litigation might follow was neither.

D. Employees and Federal Claims

Where an action against the employing entity is barred under the claims provisions, an action against the employee "for injury resulting from an act or omission in the scope of his employment" is barred as well, subject to the exception in section 950.4 (Gov. Code, § 950.2). The federal claim stands on different footing. In *Felder v. Casey*, 487 U.S. 131 (1988), the Supreme Court held that a state notice-of-claim statute "is pre-empted when the § 1983 action is brought in a state court." A missed claim deadline therefore leaves the section 1983 claim intact while removing the parallel state claims.

V. Practical Considerations

- **Calendar the six-month date at intake.** Accrual, not discovery by counsel, starts the period under section 911.2.

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- **Present a claim even when only federal claims seem viable.** The state claims, including the Bane Act claim, cannot be added later if the presentation and late-claim windows have closed.
- **Allege compliance.** Under *Shirk*, the complaint must plead timely presentation or facts excusing it.
- **Treat the one-year outer limit as firm.** The late-claim application under section 911.4 must be made within one year of accrual, apart from the listed exclusions.
- **Document the reason for delay.** The application and any petition must explain the delay, and the excusable-neglect ground is subject to a prejudice defense.
- **Track the second deadline.** After a written rejection, suit must be filed within six months under section 945.6.

VI. Authorities Cited

- 42 U.S.C. § 1983
- Civ. Code, § 52.1
- Gov. Code, § 910
- Gov. Code, § 911.2
- Gov. Code, § 911.4
- Gov. Code, § 911.6
- Gov. Code, § 945.4
- Gov. Code, § 945.6
- Gov. Code, § 946.6
- Gov. Code, § 950.2
- *Felder v. Casey*, 487 U.S. 131 (1988)
- *City of Stockton v. Superior Court* (2007) 42 Cal.4th 730
- *Shirk v. Vista Unified School Dist.* (2007) 42 Cal.4th 201

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