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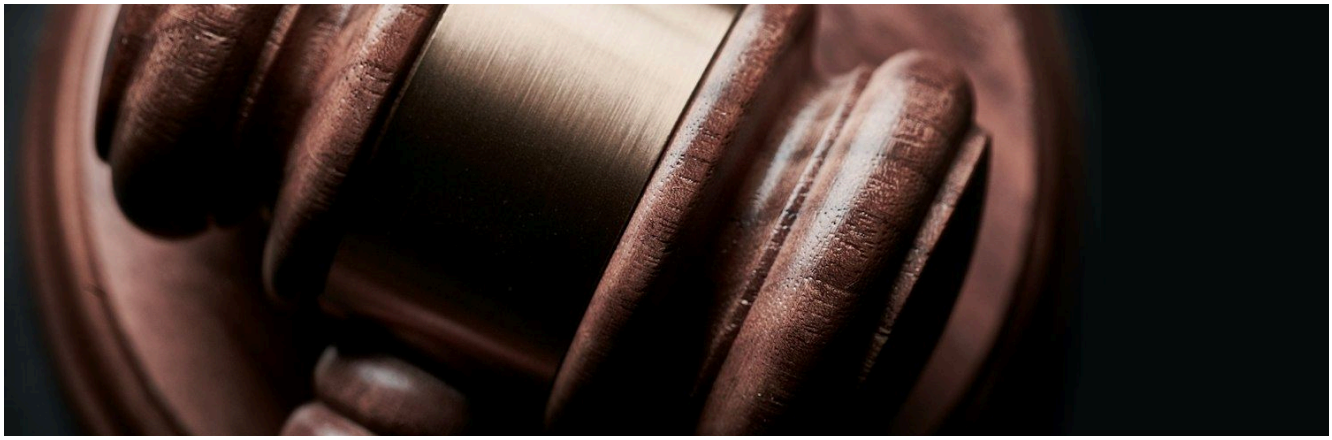
PRACTICE GUIDE · CIVIL RIGHTS

The Government Claims Act Trap

Grand Park Law Group · 2026



A. **Six-Month Claim Presentation (Gov. Code § 911.2)**

Before filing any state-law claim for damages against a California public entity or its employees acting in the scope of employment, the plaintiff **must** present a written claim to the entity. Cal. Gov. Code § 911.2(a) imposes a **six-month** deadline for claims "relating to a cause of action for death or for injury to person or to personal property." Other claims have a one-year deadline.

The claim must contain the information specified in Gov. Code § 910 (claimant's name and address, date and place of occurrence, circumstances of the claim, names of public employees if known, and amount claimed if under $10,000). Substantial compliance is generally accepted; perfect compliance is safer.

The entity has 45 days to act on the claim. If denied, the plaintiff has six months from the written notice of denial (or two years from accrual if no notice is given) to file suit on the state-law claims.

B. **What Claims Are Subject to Presentation**

- **Subject to presentation:** Bane Act, Ralph Act, battery, assault, false arrest/imprisonment, intentional infliction of emotional distress, negligence, wrongful death — essentially every state-law tort.
- **Not subject to presentation:** federal § 1983 claims (federal law preempts the state procedural prerequisite), Unruh Act claims against private defendants, claims for declaratory or injunctive relief that do not seek damages (with caveats).

The leading authority for the proposition that Bane Act claims are subject to the Claims Act is well-settled at the appellate level. *See, e.g., Connelly v. County of Fresno*, 146 Cal. App. 4th 29 (2006) (state-law claims, including civil-rights theories, against public entity dismissed for failure to comply with claim-presentation requirements).

c. Late Claim Relief and Estoppel

If the six-month deadline is missed, the plaintiff may apply within one year for leave to present a late claim under Gov. Code § 911.4, on grounds of mistake, inadvertence, surprise, excusable neglect, minority, physical or mental incapacity, or death of the claimant. The standard is similar to Code Civ. Proc. § 473.

If the entity denies the late-claim application, the plaintiff must file a petition in superior court under Gov. Code § 946.6 within six months of the denial. This is a non-waivable procedural step — failure to petition is fatal.

Equitable estoppel may apply where the entity affirmatively misled the claimant about the claim or the deadline, but courts are reluctant to find estoppel against public entities.

The pragmatic rule for the firm: **calendar a 90-day claim-presentation tickler** at intake on every potential civil rights case, even where the federal claim's two-year limitations period suggests time to spare. The state-law claims are too valuable to lose.

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