

Manager/Supervisor Risk Management

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A twice weekly e-mail training for YCPARMIA members

TOPIC: GOVERNMENT CODE – TIME LIMITS, REJECTIONS, AND EXCEPTIONS

If a claimant is pursuing money damages against a public entity in California their time to act is shorter than it would be if they were pursuing a similar claim against a private person or business. There are generally no claim requirements in pursuing recovery against a private person/business; a law suit for bodily injury must be filed within two years, and a property damage suit within three.

As indicated previously, there are mandatory time limits for pursuing a claim against a public entity and/or their employee (the requirements for pursuing a recovery against a public employee are generally the same as actions against their employing public entity) – 6 months for bodily injury and 1 year for property damage. There are a number of potential issues on when the claim period starts, but commonly the time starts on the accident date.

The GC requires that the public entity act on a claim “within 45 days after it is presented” (received in person or date mailed). After determining that the claim is timely and sufficient, the entity’s governing board can act to accept the claim, accept or reject part of the claim, or reject the entire claim; if the entity does nothing the claim is deemed rejected “by operation of law” (sort of a pocket veto). The entity must then provide written notice to the claimant notifying them of the rejection, and the date that this notice is sent starts another mandatory time period for the claimant. Note: claims are often settled after they are rejected, but before suit is filed; there is a difference between a (procedural) rejection by the entity and a denial of liability (we don’t owe it) by YCPARMIA.

A claimant has 6 months from the date that the entity sends out their notice of claim rejection to file suit (the statute is extended to two years from accrual when no notice of rejection is sent). Simple math: 6 months to file a bodily injury claim, 45 days to respond, 6 months to file suit = less than 14 months; the period for the claimant to bring their suit will be at least 8 months shorter than the two year Statute of Limitations for suing a private party for bodily injury, or 18 months on a property damage claim. The suit must include a statement that the GC claims requirements were met.

There are claims made against public entities for money damages that don’t require GC claims. Claims made by other public entities, claims for inverse condemnation, claims for relief other than money or damages (for example injunctions), employment discrimination (EEOC and DFEH), and federal claims (civil rights) are all exempt. But, if the claimant wants to pursue any State actions in conjunction with these exceptions they will have to file a timely GC claim to preserve their rights of recovery.

What should the supervisor take from all this? The State has created mandatory claims procedures that benefit the entity by shortening the period that it is exposed to claims. Nothing should be done by any entity employee that might waive or circumvent the claims requirements.

Next topic: GC Claim – Law Suits