

Manager/Supervisor Risk Management

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A twice weekly e-mail training for YCPARMIA members

TOPIC: GOVERNMENT CODE – LAWSUITS

As discussed in the last topic, in a state action the claimant has six months from the date the public entity mails its rejection to file a lawsuit. If the lawsuit is not filed within that time limit the claimant loses their right to pursue the claim. Lawsuits are filed against YCPARMIA members about 6 to 10 times a year. Filing suit transforms the claimant into a “plaintiff” and the entity and its involved employees into “defendants.”

A lawsuit is started when a “complaint” is filed with a court; depending on the action, it can be filed in a State Court (normally Yolo Superior in Woodland), or in Federal Court (normally the Eastern District in Sacramento). The complaint, usually in a legal format and written in legalese, lists the parties, a summary of the facts, compliance with the GC claim requirements, the legal theories or cause of actions that the claimant is alleging, and the damages that are being sought. Filing a complaint with a court protects time, but does not mean that the entity or their employees has been “sued.”

To get a lawsuit moving it has to be “served” on the defendants. In simple terms this means that the person or entity (defendants) being sued has to be given a copy of the complaint along with a “summons.” The summons is a required notice (again in a legal format and written in legalese), included with a copy of the complaint, which tells the defendant that they are being sued, and indicates a time limit in which they must respond to the suit by filing an “answer” (normally 20-30 days from receipt) to avoid having “default” taken against them. The suit can be served in a number of ways with the most normal either by personal service or by mail.

The served complaint is now a “lawsuit,” and must be answered within a mandatory period. The summons and complaint should be immediately given to the appropriate person in the entity with details on how and when it was received. Upon receipt, defense counsel is assigned by YCPARMIA to protect and defend the interests of our member entity and their employee defendants. YCPARMIA then manages defense counsel and the litigation process through to conclusion.

To summarize (all within specified time limits): a claimant’s GC claim is filed and rejected, plaintiff files a complaint with a court, a summons and the complaint are served on the defendants, and defense counsel files an answer to the lawsuit. Then the litigation process (a future topic) starts.

What should be taken from this? We are dealing with a process grounded on mandatory time limits. IF ANYONE RECEIVES WHAT THEY THINK IS A SUMMONS AND COMPLAINT THEY SHOULD IMMEDIATELY GET IT TO THE APPROPRIATE PARTY IN THEIR ENTITY WITH DETAILS OF HOW AND WHEN IT WAS RECEIVED. A CORROLARY RULE IS NEVER SIGN ANYTHING, ESPECIALLY NOT AN ACKNOWLEDGMENT OF SERVICE.

Next topic: GC – Duty to defend and indemnify