



CARL WARREN & COMPANY

Public Entity Claims Management Back to the Basics



Article courtesy of:

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New to Public Entity Claims Handling?

Here are a few guiding principles...

“Years ago, when asked to start handling public entity claims, my initial response was one of panic and fear of the unknown. Like most claims examiners, I had become comfortable and was resistant against expanding my horizons with something new that appeared to be both confusing and challenging. Little did I know that it was the best career move that I could have ever made. Working within the public entity area gave a rebirth to my claims handling and the challenge was more fulfilling than I could have ever imagined.

I challenge my peers to push yourself out of your comfort zone, learn something new, and to grow and develop in 2016. — John Stricklin



What type of claims fall within the Act?

- **Government Code 945.4:** “...no suit for money or damages may be brought against a public entity on a cause of action...until a written claim therefore has been presented to the public entity and has been acted upon...”
- Includes tort and contract actions
- Exceptions to Claim Requirement:
 - Suits not seeking money or damages (e.g., declaratory relief such as injunctions).
 - Suits to enforce U.S. Constitutional injuries or federal laws
 - Suits alleging inverse condemnation.
 - Others enumerated at Government Code 905 (e.g., tax, construction liens, claims by public employees for wages, claims by a public entity against a public entity).



When must a claim be presented?

- Within six (6) months after the accrual of a cause of action for “death or for injury to a person or to personal property...”
- Within one (1) year for a “claim related to any other cause of action” (e.g., real property damage claim)
- Generally speaking, cause of action “accrues” at the time of injury. Claim must be “presented” to entity within six (6) months/one (1) year of accrual.



If a claim is sufficient and timely, the public entity has 4 options:

- Reject (claimant then has six (6) months from the date of the notice is personally delivered or deposited in the mail to file suit)
- Allow
- Allow in and reject in part
- Comprise the claim (settlement)



Things to avoid in practice:

- Do not make factual representations regarding the underlying injury
- Do not discourage the filing of a claim
- If they ask for a claim form, mail it to them/let them know how to find it
- Do not hold yourself out as an advocate for the injured “claimants”
- Do not hold yourself out as an expert on the law or facts underlying the case
- Do not mislead claimants

It is important to note, if action is not taken on a claim within forty-five (45) days, the entire claim is rejected as a matter of law, but the claimant is now given two (2) years from accrual of the cause of action to file suit.

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