



GETTING IT RIGHT:
**BEST PRACTICES IN RESPONDING
TO GOVERNMENT CLAIMS**

Alana Rotter | Partner **Nadia Sarkis | Partner**


- arotter@gmsr.com
- nsarkis@gmsr.com
- (310) 859-7811
- (310) 859-7811

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- Overview
- Common Pitfalls
 - Failing to recognize a complaint is a claim
 - No or inadequate notice that a claim is insufficient
 - Using the wrong denial form/sending it the wrong place
 - Failing to process misdirected claims
- Best Practices

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What is the Government Claims Act?

- Prescribes how public entities can be sued for damages.
- Imposes strict procedural requirements on litigants and confines governmental liability to “rigidly delineated circumstances.”

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Litigants' Obligations

- Timely claim
- With the required information
- Sent to the right place

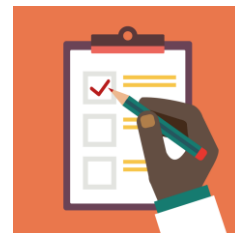


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Public Entities' Obligations

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 - Respond in writing
 - Decision on the merits and/or denial for untimeliness
 - With the required information



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Pitfall: Failing To Recognize A Claim

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 - What qualifies as a claim?
 - Does the letter include
 - The claimant's name and address;
 - Address for notices;
 - What happened, where and when;
 - Identity of responsible public employee;
 - A claim for damages?

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Pitfall: Failing To Recognize A Claim

- Failing to recognize or respond to a claim results in the waiver of defenses.

Sufficiency of the claim

Statutes of limitations



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Pitfall: Failing To Recognize A Claim

- The easy case: Plaintiff's lawyer fills out the claims form with all statutorily required information & sends it to the right place.



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Inadequate Claim? Not A Claim At All?

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 • A substantially compliant claim requires *some* compliance with *all* statutory requirements.
- It gives the public entity timely notice and an opportunity to investigate/settle.
- The doctrine cannot cure the total omission of an essential element.

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Is It A Claim?

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 • Letter from an angry constituent complaining about building code violations, demanding you either fix the problem or provide \$30,000 in compensation.
- What is the gravamen of the letter? Does it make clear the author intends to sue for damages?
- *Olson v. Manhattan Beach Unified Sch. Dist.* (2017) 17 Cal.App.5th 1052.

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Is It A Claim?

- Demand letter from an employment lawyer that requests reinstatement of a former employee and threatens possible legal action.
- *Dilts v. Cantua Elementary Sch. Dist.* (1987) 189 Cal.App.3d 27.



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Best Practices

- Err on the side of treating complaints as claims.
- Train the employees who process your claims.



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Pitfall: No Or Inadequate Notice Re Insufficiency Of A Claim

- An inadequate claim can still trigger a duty to notify the potential claimant.
- It must be “readily discernible” that the intended purpose of a communication is to assert a compensable claim.

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Pitfall: No Or Inadequate Notice Re Insufficiency Of A Claim

Simms v. Bear Valley Community Health Care District
(2022) 80 Cal.App.5th 391:

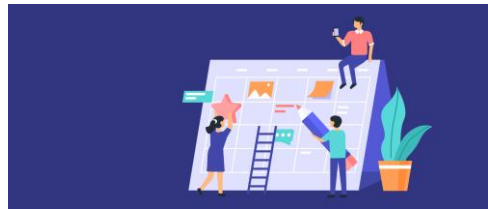
- Letter to public entity hospital from aggrieved patient.
- Notice that claimant is attempting to file a valid claim that will result in litigation?

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Best Practices

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 - Interpret the “readily discernible” standard broadly.
 - Define protocol & training for inadequate claims.



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Pitfall: Bungling The Denial Of A Claim

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 - Denial on the merits: Notice of denial & that claimant has 6 months to file a court action.
 - Denial as untimely: Notice re late claims process & claimant’s entitlement to seek attorney advice.
 - Denial of application to file a late claim: 45 days to give written notice & inform applicant regarding options.

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Pitfall: Bungling The Denial Of A Claim

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 - A claim is late, but the entity's notice denies it on the merits instead of as untimely.
 - A claim is late, but the entity's late notice doesn't include statutorily required warnings.
 - A claim is timely, but the entity incorrectly denies it as late and doesn't give required warnings for merits denials.
 - An application to file a late claim is untimely, but the entity denies the application solely on the merits.
 - A compliant denial notice is sent to the wrong place.

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Pitfall: Bungling The Denial Of A Claim

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The result? Waiver of defenses and longer limitations periods.

 - *Andrews v. Metropolitan Transit System* (2022) 74 Cal.App.5th 597.
 - *Roger v. County of Riverside* (2020) 44 Cal.App.5th 510.
 - *Lowry v. Port San Luis Harbor Dist.* (2020) 56 Cal.App.5th 211.
 - *Cavey v. Tualla* (2021) 69 Cal.App.5th 310.

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Best Practices

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 - Develop standard forms for rejecting late claims, denying applications to file a late claim, and denying claims on the merits. Make sure each form includes the requisite statutory warnings.
 - Define protocols. If it is unclear whether a claim is timely, send a hybrid notice on the merits and as untimely with statutory language for both.
 - If you miss the deadline, send a notice of denial on the merits anyway.



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Pitfall: Dealing With Misdirected Claims

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 A litigant must send a claim:

- By mail or delivery to the public entity's clerk, secretary or auditor, or by mail to the "governing body at its principal office."
- Misdirected claims suffice if "actually received" by the clerk, secretary, auditor, or board within required time period.
- Actual receipt is strictly construed. Actual knowledge is not enough.

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Pitfall: Dealing With Misdirected Claims

- People send claims to the wrong recipient or the wrong entity all the time.
- No substantial compliance even if:
Actual recipient communicated with statutorily designated recipient about the claim.

The claim is presented to the entity's legal department.

Claim is directed to public employee's attorney.

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Pitfall: Dealing With Misdirected Claims

- No duty to forward.
- *Elias v. San Bernadino County Flood Dist.* (1977)
68 Cal.App.3d 70: Claim directed to county, instead of district, was substantially compliant because same officials were responsible for evaluating the claim.

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Best Practices

- The safest procedure is to forward the claim to the city clerk, and have the clerk deny the claim as untimely or on the merits.
- In the alternative, you can direct employees to forward claims to the legal department.



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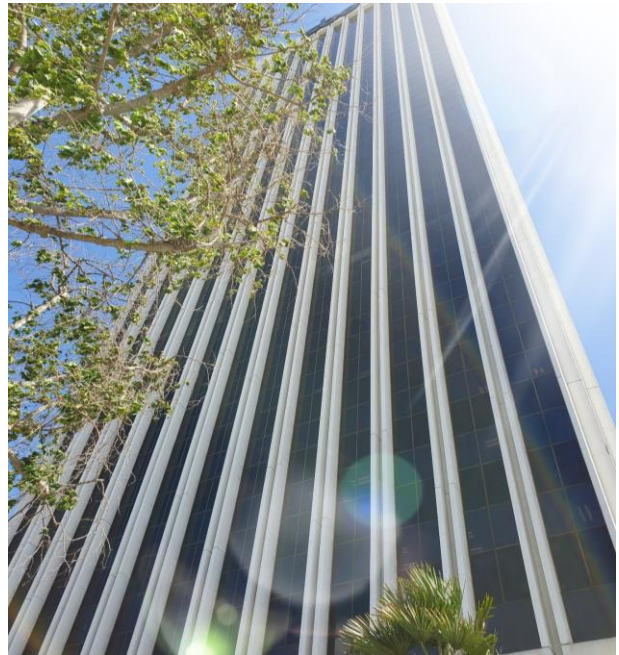
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THANK YOU!

Alana Rotter

Greines, Martin, Stein & Richland
arotter@gmsr.com
(310) 859-7811

Nadia Sarkis

Greines, Martin, Stein & Richland
nsarkis@gmsr.com
(310) 859-7811

GREINES, MARTIN, STEIN & RICHLAND LLP