



# Getting It Right: Best Practices in Responding to Government Claims

Thursday, September 8, 2022

**Alana Rotter, Partner, Greines, Martin, Stein & Richland**  
**Nadia Sarkis, Partner, Greines, Martin, Stein & Richland**

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GREINES, MARTIN, STEIN & RICHLAND LLP

**September 8, 2022**

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Responding To Government Claims**

**Alana Rotter**  
arotter@gmsr.com  
(310) 859-7811

**Nadia Sarkis**  
nsarkis@gmsr.com  
(310) 859-7811

## Getting It Right: Best Practices In Responding To Government Claims

The Government Claims Act’s purpose is “to confine potential governmental liability to rigidly delineated circumstances.” (*Brown v. Poway Unified School Dist.* (1993) 4 Cal.4th 820, 829.) To that end, the Claims Act imposes strict procedural requirements on litigants seeking money or damages from a public entity, including requiring litigants to submit a claim to the public entity *before* filing a lawsuit. Failure to do so can forfeit the claim.

But there are traps for the unwary for public entities too. Done correctly, claims denials can shorten the statute of limitations and create defenses in litigation. But public entities often miss these opportunities—and waive reliance on the Act—by not responding correctly. This paper highlights potential trouble spots to be attuned to, so entities can develop protocols and train those who process claims accordingly.

### Overview

The Government Claims Act “governs all liability against public entities in California” (*Clark v. Optical Coating Laboratory, Inc.* (2008) 165 Cal.App.4th 150, 182) and “prescribes the manner in which public entities may be sued” (*V.C. v. Los Angeles Unified School Dist.* (2006) 139 Cal.App.4th 499, 507 (V.C.)).

No civil suit for money or damages may be brought against a public entity “until a claim has been filed with the relevant public entity and either the public entity acts on it or it is deemed to have been denied by operation of law.” (*Alliance Financial v. City and County of San Francisco* (1998) 64 Cal.App.4th 635, 642.) “[U]nless specifically excepted,” the claims presentation statutes apply to “any action for money or damages, whether sounding in tort, contract or some other theory.” (*Ibid.*; § 945.4.)<sup>1</sup>

For litigants, the stakes are high: Failure to timely present a claim “bars a plaintiff from filing a lawsuit against that entity.” (*City of Stockton v. Superior Court* (2007) 42 Cal.4th 730, 738.)

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<sup>1</sup> Unless otherwise indicated, all statutory citations are to the Government Code.

***Litigants' obligations.*** Litigants must file a timely claim, with the required information, and send it to the right place:

- “Claims for personal injury and property damage must be presented within six months after accrual; all other claims must be presented within a year.” (*DiCampli-Mintz v. County of Santa Clara* (2012) 55 Cal.4th 983, 990 (*DiCampli*), citing § 911.2.) For claims that must be presented within six months, the applicant may, within one year of the cause of action accruing, apply for leave to present a late claim. (§ 911.4.)
- A claim must include certain information, including: (1) the name and address of the claimant; (2) the address to which notices should be sent; (3) the “date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted”; (4) a “general description” of the “injury, damage or loss incurred”; (5) the “name or names of the public employee or employees causing the injury, damage, or loss, if known”; and (6) the “amount claimed” as damages, and if the amount exceeds \$10,000, whether the claim would be a limited civil case. (§ 910, subds. (a)-(f).)
- The litigant must present the claim by “mail or delivery” to an entity’s “clerk, secretary or auditor” or by mail “to the governing body at its principal office.” (§ 915, subd. (a).) If a claim is misdirected, it is “deemed to have been presented in compliance with this section . . . if it is delivered or mailed within the time prescribed for presentation,” the claim is “actually received by the clerk, secretary, auditor or board of the local public entity.” (§ 915, subds. (d)-(e).) “Actual receipt” is strictly construed; an undelivered or misdirected claim fails to comply with the statute. (*DiCampli*, 55 Cal.4th at p. 992.)

***Public entities obligations.*** The public entity must respond in writing, with the required information:

- An entity must provide written notice of its action on a claim. (§§ 913, 915.4)
- If the entity rejects the claim on the merits, it must provide a written rejection notice warning that the claimant has six months to file a court action on the claim. (§ 913.) Rejecting the claim *and providing the required notice*, shortens the statute of limitations on the cause of

action to six months after notice is given; the limitations period would otherwise be two years from when the cause of action accrued. (§ 945.6.)

- If the entity rejects as late a claim that was required to be presented within six months of accrual, it must provide written notice that: (1) the claim is being returned because it was not presented within six months, (2) the claimant's only recourse is to apply for leave to present a late claim, and (3) the claimant may seek the advice of an attorney, and if it desires to do so, should do so immediately. (§ 911.3, subd. (a).) If the entity does not provide the required notice within 45 days after the claim is presented, it waives any defense based on the time limit to present a claim. (*Id.*, subd. (b).)<sup>2</sup>
- If the entity denies an application to file a late claim, it must provide written notice that (1) if the applicant wishes to file a court action, it must first petition the court for an order relieving it from the claims presentation requirement within six months from the date of denial of leave to present a late claim, and (2) that the claimant may seek advice of an attorney, and if it wishes to do so, should do so immediately. (§ 911.8, subd. (b).) If the entity denies the claim on the merits after receiving the application to file a late claim, it must provide written notice as would be required for denial of a timely claim. (§§ 911.8, 913.)

### ***Common pitfalls***

#### **1. Failing to recognize that an informal written complaint is a claim.**

The first challenge: What qualifies as a claim? In the easy case, there is no room for doubt. A plaintiff's lawyer fills out a public entity's form, "Claims for Damages to Person or Property," correctly details all the statutorily-required information, and sends it to the right place. But many claims are not so obvious. What if you receive a letter from an angry constituent complaining about building code violations, demanding you either fix the problem or provide \$30,000 in

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<sup>2</sup> Section 911.3's statutory waiver of an untimeliness defense is distinct from the concept of equitable/common law waiver: A plaintiff asserting common law waiver must prove that the defendant intentionally relinquished a known right. A statutory waiver can be unintentional; it just requires failure to comply with statutory requirement. (*Mandjik v Eden Township Hosp. Dist.* (1992) 4 Cal.App.4th 1488, 1503.)

compensation? What about a letter from an employment lawyer that demands you reinstate one of your former employees or face possible legal action?

It comes down to section 910's requirements. Does the letter include the claimant's name and address; the address for notices; all the required factual detail—what happened, where and when, and who was responsible for causing harm; and is there a claim for damages? Courts will recognize a claim as valid if it “substantially complies” with all the statutory requirements. (*Olson v. Manhattan Beach Unified Sch. Dist.* (2017) 17 Cal.App.5th 1052, 1060 (*Olson*)). The doctrine “is based on the premise that substantial compliance fulfills the purpose of the claims statutes, namely, to give the public entity timely notice of the nature of the claim so that it may investigate and settle those having merit without litigation.” (*Ibid.*)

Compliance is substantial if “sufficient information is disclosed on the face of the filed claim to reasonably enable the public entity to make an adequate investigation of the merits of the claim to settle it without expensive litigation.” (*Dilts v. Cantua Elementary Sch. Dist.* (1987) 189 Cal.App.3d 27, 33 (*Dilts*)). But the doctrine will not “cure total omission of an essential element from the claim or remedy a plaintiff's failure to comply meaningfully with the statute.” (*Loehr v. Ventura County Community College Dist.* (1983) 147 Cal.App.3d 1071, 1083 (*Loehr*); *Olson, supra*, 17 Cal.App.5th at pp. 1060-1061 [no substantial compliance where appellant's grievance did not contain, inter alia, “the address of the claimant, the address where future notices should be sent,” “the dollar amount claimed or whether the claim would be a limited civil case,” and the description did “not support a cause of action for defamation or deceit.”].)

It is also important to keep in mind: There is a difference between a claim that is inadequate because it does not substantially comply with the requirements of section 910, and a document that is not a claim at all. A claim that is inadequate under section 910 can *still* trigger a duty to act by the public entity to “notify the potential claimant of the claim's insufficiency stating, with particularity, the defects or omissions.” (*Simms v. Bear Valley Community Healthcare Dist.* (2022) 80 Cal.App.5th 391 [2022 WL 2313164] (*Simms*)). The failure to do so “waives any defenses as to the sufficiency of the claim based upon a defect or omission.” (*Ibid.*) A letter will trigger the notice-waiver provisions of the Claim Act where it is “readily discernible by the entity that the intended purpose thereof is to convey the assertion of a compensable claim against the entity which, if not otherwise satisfied,

will result in litigation.” (*Green v. State Center Community College Dist.* (1995) 34 Cal.App.4th 1348, 1358.)

So, let’s go back to our examples. For our first example, the letter from the angry constituent, the answer turns on the contents of the letter. What did he say and how closely does his letter hews to section 910’s requirements? Courts ask, “Is there *some* compliance with *all* of the statutory requirements; and, if so, is this compliance sufficient to constitute *substantial* compliance?” (*City of San Jose v. Superior Court* (1974) 12 Cal.3d 447, 456-457 (*City of San Jose*)). And is there enough there to trigger a duty to give notice of insufficiency? Probably the bare possibility of litigation here is not clear enough to call this a claim. A claimant must make clear that he intends to *sue for damages* if his demands are not met, and this letter does not.

Let’s go to our second example. Somewhat counterintuitively, case law tells us that the second example also is *not* a claim. A threat of possible legal action does not substantially comply with the Claims Act if the “gravamen” of the letter is to demand reinstatement of the employee’s position and does not claim “money damages” or estimate “the amount of any prospective injury, damage or loss.” (*Loehr, supra*, 147 Cal.App.3d at p. 1083; *Dilts, supra*, 189 Cal.App.3d at pp. 36-38 [letter threatening possible litigation did not substantially comply with the Act where the mention of litigation was for the purpose of negotiating a settlement, not a claim].)

While the defense that something is not a claim can be effective, hopefully you never get to that stage. In fact, we encourage you to err on the side of treating informal written complaints as claims. Even if you think there are good arguments why a document is *not* a claim, treat it as a claim anyway and deny it as untimely and/or on the merits, as applicable. There is no downside to doing so, and significant potential upside in triggering the limitations period if a court later decides under the substantial compliance doctrine that the complaint was a claim.

Another takeaway: Train the people who process your claims. Most are handled by administrative staff who are not attorneys. And public entities frequently lose their opportunity to invoke the Claims Act by failing to properly act on documents that courts will subsequently recognize as claims. Proper training, and the use of form notices that contain the right information (see below) will help you avoid this common pitfall.

## 2. No notice, or inadequate notice, of insufficiency of claim.

Sometimes claims are hard to decipher—for example, the claimant may not have provided enough information about what happened or the desired relief. The Claims Act provides for a “notice of insufficiency of claim” in these situations:

“If, in the opinion of the board or the person designated by it, a claim as presented fails to comply substantially with the requirements of Sections 910 and 910.2, or with the requirements of a form provided under Section 910.4 if a claim is presented pursuant thereto, the board or the person may, at any time within 20 days after the claim is presented, give written notice of its insufficiency, stating with particularity the defects or omissions therein. The notice shall be given in the manner prescribed by Section 915.4. The board may not take action on the claim for a period of 15 days after the notice is given.” (§ 910.8.)

Failing to provide notice of insufficiency waives “[a]ny defense as to the sufficiency of the claim based upon a defect or omission in the claim as presented,” with one exception: “[N]o notice need be given and no waiver shall result when the claim as presented fails to state either an address to which the person presenting the claim desires notices to be sent or an address of the claimant.” (§ 911.)

### *Common pitfalls*

Pitfalls here include (1) not sending a notice of deficiency at all, whether because the person processing claims isn’t aware of the procedure or doesn’t recognize that the correspondence is a claim, or because the deficiencies are not timely identified; and (2) failing to provide notice compliant with section 915.4.

The recent decision in *Simms, supra*, 80 Cal.App.5th 391 [2022 WL 2313164] is illustrative. There, a public entity hospital received a letter from an aggrieved patient that expressed dissatisfaction, but that did not satisfy all the requirements for a claim. *Simms* held that the letter was enough to put the hospital on notice that the patient was attempting to assert a claim. It, thus, was “not merely correspondence expressing dissatisfaction, but a claim for injuries arising from medical malpractice and defamation—and incomplete claim, but adequate to trigger Bear Valley’s duty to give notice of the insufficiencies, on pain of waiving “[a]ny defense as to the sufficiency of the claim.” (*Id.* at \*5.) *Simms* explained that “[t]here is a recognized and important distinction . . . between a claim that is



inadequate because it does not substantially comply with the requirements of section 910 and a document that is not a claim at all.” (*Ibid.*) “A claim that fails to substantially comply with sections 910 and 910.2 may still be considered a ‘claim as presented’ if it puts the public entity on notice both that the claimant is attempting to file a valid claim and that litigation will result if the matter is not resolved.” (*Ibid.*) A “claim as presented” is also called a “trigger-claim” because it places on the public entity a duty to notify the potential claimant of insufficiency, stating the defects or omissions with particularity. (*Ibid.*) If a public entity fails to send the notice of insufficiency, “it *waives* any defenses to the sufficiency of the claim based upon a defect or omission.” (*Ibid.*) Because the hospital in *Simms* did not send a notice of deficiency, it waived any defense based on the alleged defects or omissions. (*Ibid.*; see also, e.g., *Sykora v. State Dept. of State Hospitals* (2014) 225 Cal.App.4th 1530 [notice of deficiency required where claimant inadvertently failed to include \$25 claim filing fee with his claim; failure to provide notice waived entity’s defense that the claim was invalid].)

### **3. Using the wrong denial form, or sending it to the wrong place.**

As described above, the Government Code requires that written notice of action on a claim include specific language alerting the applicant to potential next steps.

#### ***Common pitfalls***

Denying a claim on the merits, *with notice in the proper form and sent to the right place*, can shorten the statute of limitations—and denying a claim as untimely, *with notice in the proper form and sent to the right place*—can preserve a litigation defense based on failure to submit a timely claim. But entities sometimes miss these opportunities, by sending the wrong form of notice or sending notice to the wrong place. Examples include:

- A claim is late, but the entity sends out a notice denying it on the merits instead of as untimely, thereby waiving the claims statute untimeliness defense;
- A claim is late, but the entity’s late notice doesn’t include the statutorily-required warnings, thereby waiving the claims statute untimeliness defense;

- A claim is timely, but the entity incorrectly denies it as late, and therefore doesn't provide the warning required when denying claim on the merits, as would shorten the statute of limitations;
- An entity denies a timely claim on the merits, but its denial notice fails to include the statutorily-required notice, as would shorten the statute of limitations;
- An application to file a late claim is untimely, but the entity instead denies the application solely on the merits, thereby waiving the claims statute untimeliness defense;
- An entity issues the correct form of denial but mails it to the wrong address, rendering the notice ineffective.

Four recent Court of Appeal decisions illustrate these issues, and the consequences.

*Andrews v. Metropolitan Transit System* (2022) 74 Cal.App.5th 597, 605 (*Andrews*) held that the suit was subject to a two-year statute of limitations, instead of the shortened six-month statute of limitations, because the public entity's notice of denying the claim on the merits omitted section 913's required warning that "You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately." *Andrews* rejected the entity's argument that its notice "substantially" complied with the statute: "[O]ne objective of section 913 is to ensure claimants are advised that they should consider consulting an attorney, and do so promptly. The warning provided by MTS in its notice of rejection did not comply with this objective of the statute because it did not say anything about consulting an attorney. The doctrine of substantial compliance therefore does not apply." (*Id.* at p. 607.) *Andrews* relied on the rule that "[w]here [a] statute prescribes a certain kind of notice, a court is not justified in saying that some other kind of notice would be equally effective." (*Ibid.*, quotation marks omitted.) It made no difference that the plaintiff had already retained an attorney when he submitted his claim: "[W]here a party has not achieved each objective or purpose of the statute, the doctrine of substantial compliance does not apply. (Citation.) Moreover, even considering *Andrews*'s representation, the attorney advisement still has meaning. A represented claimant like *Andrews* could have representation only for the limited purpose of submitting a claim, or the representation could otherwise have ended by the time the public entity delivered its notice of rejection. The attorney advisement would still serve a useful purpose

under such circumstances. We will not lightly disregard the notice expressly mandated by statute.” (*Ibid.*)

*Roger v. County of Riverside* (2020) 44 Cal.App.5th 510 (*Roger*) held that the public entity waived a defense that the plaintiff failed to submit a timely claim because the entity had rejected the claim on the merits without notifying the plaintiff that it was late. *Roger* reasoned that, “[i]t is well established that [f]ailure to give the warning within 45 days after the claim was presented results in waiver of the defense that the government claim was untimely.” (*Id.* at p. 524 [relying on section 911.3, internal quotation marks omitted].) The County argued that it should be allowed to assert an untimeliness defense because the claim appeared timely based on the date the claimant listed on the claim, and it only learned during litigation that the claim had accrued earlier. (*Ibid.*) *Roger* rejected that argument. It noted that the County’s claim form did not ask when the claim *accrued*, it asked when the “damage or injury” occurred. “Although the distinction between accrual and occurrence of injury may not matter for many torts (such as negligence causing personal injury), the distinction is important for a tort like defamation, where the claim accrues upon publication but the injury caused by the publication can occur much later. Thus, the issue is not that Roger gave the wrong answer to or mislead the County, it’s that the County’s form asks the wrong question. We cannot hold the claimant responsible for this issue with the County’s form.” (*Id.* at p. 525, footnote omitted.) *Rogers* further noted that the information attached to the claim indicated an earlier accrual date, and that “[w]hile a public entity is not required to investigate a claim for timeliness, it fails to do so at the risk of waiving a timeliness defense in litigation.” (*Id.* at p. 526.) *Rogers* pointed out that if the County had notified the claimant that his claim was late, he could have submitted an application to file a late claim under section 911.4, and then, if necessary, petitioned the court for relief under section 946.6. (*Ibid.*) “By failing to notify him of the defect, the County deprived him of this opportunity to provide an excusable justification for the lateness of his claim. We therefore conclude the County waived the late-claim defense and the trial court erred in dismissing the defamation claims.” (*Ibid.*)

*Lowry v. Port San Luis Harbor District* (2020) 56 Cal.App.5th 211 (*Lowry*) held that an entity’s denial on the merits of a claim submitted with an application to file a late claim estopped it from asserting that it had denied the application to file a late claim. The public entity’s denial notice informed the claimant that “the claim presented to the [District] . . . was rejected,” and provided the warning required by section 913 regarding the claimant having six months to file a lawsuit. (*Id.* at pp. 218-219.) *Lowry* held that this was a denial on the merits, and that “[b]y

denying the claim, the District impliedly granted the application to present a late claim.” (*Id.* at p. 218.) “By advising Lowry the claim was denied, the District was estopped from asserting that it did not grant the application to file a late claim. Accordingly, section 946.6, which allows a petition to seek relief from the failure to comply with the claim requirement after denial of an application for leave to present a claim, did not apply.” (*Id.* at p. 219.)

*Cavey v. Tualla* (2021) 69 Cal.App.5th 310 (*Cavey*) held that the plaintiff’s claim was subject to a two-year statute of limitations, not the shortened six-month statute, because the entity mailed the claim rejection notice to the claimant’s attorney instead of to the claimant at the address stated in the claim. *Cavey* relied on section 915.4, which provides that when notice is given by mail, it must be sent to “the address to which the person presenting the claim . . . desires notices to be sent or, if no such address is stated in the claim . . . , by mailing the notice to the address, if any, of the claimant as stated in the claim . . . .” (*Id.* at p. 345.) The claim didn’t specify a desired address for sending claims, but listed the plaintiff’s address as a post office box. “Applying the plain meaning of the statute, the required mailing address was” that post office box. (*Ibid.*) Mailing the rejection notice to the plaintiff’s attorney instead did not comply with the statute. (*Ibid.*) *Cavey* rejected the entity’s argument that it *wasn’t allowed* to communicate directly with the plaintiff once she retained counsel: “The trial court’s ruling and the respondent’s brief cite no authority to support this interpretation of section 915.4. Our preliminary research located no authority for the principle that the rejection notice satisfied the mailing requirements if it was sent to the claimant’s attorney instead of an address stated in the claim.” (*Ibid.*) *Cavey* concluded that the entity was not bound by the rule of professional responsibility regarding communication with represented individuals, and that courts must enforce the plain meaning of the Government Claims Act. (*Id.* at pp. 345-346.) The “Government Claims Act does not allow a public entity to place itself outside the mailing requirements of the statute by choosing to have an attorney or a legal department handle the rejection notice. We conclude that District’s written rejection notice was not given in accordance with sections 913 and 915.4 and, therefore, plaintiff’s lawsuit is subject to the two-year statute of limitations contained in section 945.6, subdivision (a)(2). Her action is timely because it was filed less than 11 months after the traffic accident. Consequently, the demurrer based on the statute of limitations should have been overruled.” (*Id.* at p. 346.)

## *Avoiding the pitfalls*

Some ways to avoid the pitfalls described above include:

- 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. Samples are provided below.
- Train those who are responsible for processing claims on which form to use, when, and where to mail notices.
- If the claim is untimely on its face, there is no reason to suspect there are other facts rendering it untimely, and it is not accompanied by an application for leave to present a late claim, send a section 911.3 notice returning the claim as untimely.
- If the claim is timely on its face, and there is no reason to suspect there are other facts rendering it untimely, send a section 913 notice denying it on the merits.
- If the claim alleges facts that clearly render it untimely and it is accompanied by an application for leave to present a late claim, send a Gov. Code §911.8 notice denying the application.
- If it is unclear whether a claim is timely, but it would be denied on the merits if it were timely, send a hybrid notice rejecting the claim as untimely *and* denying it on the merits, with the required language for both. (§ 911.3(a), §913.)
- If you discover after the fact that your entity has missed the deadline for providing written notice of action on a claim, thereby resulting in the claim being denied by operation of law, consider serving a notice of denial on the merits anyway: Doing so, with the language required by section 913, can still shorten the 2-year statute of limitations to a 6-month statute of limitations, running from the date the entity delivered or mailed the section 913 notice. (*Katellaris v County of Orange* (2001) 92 Cal.App.4th 1211, 1216, fn. 4.)

### **4. Get claims to the right people, timely.**

The Claims Act provides that a claim must be “presented to a local public entity” by either mail or delivery to an entity’s “clerk, secretary or auditor” or by

mail “to the governing body at its principal office.” (§ 915, subd. (a).) If a claim is misdirected, it is “deemed to have been presented in compliance with this section... if it is delivered or mailed within the time prescribed for presentation,” the claim is “actually received by the clerk, secretary, auditor, or board of the local public entity.” (§ 915, subds. (d)-(e).)

In practice, potential plaintiffs frequently send their claims to the wrong public entity or the wrong recipient at public entities. The good news is “[a]ctual receipt” is strictly construed, and it is a plaintiff’s burden to show the proper parties had notice of the claim. (*DiCampli, supra*, 55 Cal.4th at pp. 991-992.) An undelivered or misdirected claim fails to comply with the statute. (*Ibid.* [claim directed to entity’s risk management department, rather than the entity’s “clerk, secretary, auditor or board” did not substantially comply with the Act]; *Westcon Construction Corp. v. County of Sacramento* (2007) 152 Cal.App.4th 183, 201-202 (*Westcon*) [no substantial compliance where actual recipient communicated with the statutorily designated recipient about the claim]; *Life v. County of Los Angeles* (1991) 227 Cal.App.3d 894, 900 [no substantial compliance where claim was presented to entity’s legal department because there was no evidence that the claim reached the appropriate county officials or board]; *Tapia v. County of San Bernardino* (1994) 29 Cal.App.4th 375, 384-385 [letters by deputy sheriff’s attorney to sheriff seeking back pay and reinstatement, rather than to county board or its risk manager, as required by county ordinance, were insufficient]; *Del Real v. City of Riverside* (2002) 95 Cal.App.4th 761, 768 [in action against police officer and city, letter to officer’s counsel was insufficient notice to city, where it was sent to officer personally and did not communicate intention to sue].)

Importantly, substantial compliance also does not turn on whether the public entity has “actual knowledge of facts that might support a claim.” (*DiCampli, supra*, 55 Cal.4th at p. 990.) “It is well settled that claims statutes must be satisfied even in face of the public entity’s actual knowledge of the circumstances surrounding the claim. Such knowledge—standing alone—constitutes neither substantial compliance nor basis for estoppel.” (*City of San Jose, supra*, 12 Cal.3d at p. 455.)

*DiCampli* disapproved *Jamison v. State of California* (1973) 31 Cal.App.3d 513, which found public entities had a duty to forward misdirected claims to a proper agency. But keep in mind: If the governing body of one public entity is also the governing body of another, a claim against the subordinate entity may constitute substantial compliance with the claims statute vis-à-vis both. (*DiCampli,*

*supra*, 55 Cal.4th at p. 997, citing *Elias v. San Bernadino County Flood Control Dist.* (1977) 68 Cal.App.3d 70, 75-77 (*Elias*) & *Carlino v. Los Angeles County Flood Control Dist.* (1992) 10 Cal.App.4th 1526, 1533-1534.) In *Elias*, for example, the plaintiff addressed his claim to the county, instead of the district, before filing suit against the district. The court said there was substantial compliance because even though the district and county were separate entities, the claim was “actually presented” since the same officials would have been responsible for evaluating the claim had it been properly addressed to the district. (*Elias*, 68 Cal.App.3d at 75-77.)

This is all fertile ground for public entities in defending claims. But for practical reasons, we still recommend that public entities have a defined process in place to handle misdirected claims. 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.

### **SAMPLE NOTICE DENYING CLAIM**

(as required by Gov. Code, § 913)

Notice is hereby given that the claim that you presented to the \_\_\_\_ [title of board or officer] on \_\_\_\_\_ [date] was rejected on \_\_\_\_\_ [date of action or rejection by operation of law].

### **WARNING**

Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6.

[Optional: This time limitation applies only to causes of action for which Government Code sections 900–915.4 requires you to present a claim. Other causes of action, including those arising under federal law, may have different time limitations.]

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

**SAMPLE NOTICE REJECTING CLAIM AS UNTIMELY**

(as required by Gov. Code, § 911.3)

The claim you presented to the (insert title of board or officer) on (indicate date) is being returned because it was not presented within six months after the event or occurrence as required by law. See Sections 901 and 911.2 of the Government Code. Because the claim was not presented within the time allowed by law, no action was taken on the claim.

Your only recourse at this time is to apply without delay to (name of public entity) for leave to present a late claim. See Sections 911.4 to 912.2, inclusive, and Section 946.6 of the Government Code. Under some circumstances, leave to present a late claim will be granted. See Section 911.6 of the Government Code.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

**SAMPLE NOTICE REJECTING APPLICATION FOR  
LATE CLAIM RELIEF**

(as required by Gov. Code, § 911.8)

To \_\_\_\_\_ [name of claimant] and \_\_\_ [his/her] attorney:

Notice is hereby given that your application, which you presented on \_\_\_ [date], for leave to present a claim after expiration of the time allowed by law for doing so was denied on \_\_\_\_\_.

**WARNING**

If you wish to file a court action on this matter, you must first petition the appropriate court for an order relieving you from the provisions of Government Code Section 945.4 (claims presentation requirement). See Government Code Section 946.6. Such petition must be filed with the court within six (6) months from the date your application for leave to present a late claim was denied.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.