

A Plaintiff Cannot File a Lawsuit Against a Public Entity Before the Entity Rejects a Government Claim

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ATTORNEYS

A plaintiff who files both a lawsuit and a government claim on the same day does not satisfy the Government Claims Act.

Robert C. Ceccon

In *Lowry v. Port San Luis Harbor District*, an injured employee filed a complaint in Superior Court against the Harbor District on March 10, 2017. On the same day, the plaintiff filed an application to present a late claim and a proposed Government Claim with the District. The District rejected the claim on March 29, 2017 and the plaintiff then served the District with the summons and complaint.

The trial court dismissed the complaint because the plaintiff failed to file a claim before he filed the lawsuit, as required by the Government Claims Act. The Court of Appeal affirmed and held that the plaintiff's lawsuit was premature. It held that plaintiff could not file a complaint before the District acted on his claim. Moreover, it found that plaintiff could not amend the complaint to allege that he complied with the Government Claims Act because plaintiff could never allege that he filed the complaint after the District rejected the claim.

The Court of Appeal declined to follow "some older Court of Appeal cases that found compliance with the Act even though complaints were filed prematurely, before the claims were rejected." Thus, *Lowry* represents a significant clarification of the law regarding government claims.

If you have any questions about how this decision may impact your agency, please contact **Bob Ceccon** or **Darrelle Field**.