

# CLIENT NEWS BRIEF

## Plaintiffs with Late Tort Claims Take a Hit

May 2020  
Number 39

A would-be plaintiff's ability to obtain relief from the government claim presentation requirement (the Government Claims Act, Gov. Code, § 810, et seq.) has been limited by the California Court of Appeal. In *Lincoln Unified School Dist. v. Superior Court* (2020) 45 Cal.App.5th 1079, the court held that a plaintiff may not request that a court waive the six-month time limit for submitting a claim to a public entity for reasons different than the plaintiff presented to the public entity when seeking a waiver of the same six-month time limit.

### Background Information

When a person seeks to sue a public entity for personal injury claims, the Government Code requires that, prior to filing their lawsuit, the injured person must first submit their claim for injury and damages to the public entity within six months of the date of the injury. The public entity may then choose to accept the claim, deny the claim, or ignore the claim. If the public entity denies or ignores the claim, the injured person may then proceed to filing a lawsuit in state court. If they do not timely file their lawsuit, they may later be barred due to the expiration of the statute of limitations.

### *Lincoln USD v. Superior Court*

On August 1, 2017, Jayden, a high school student, was participating in football tryouts at Lincoln High School in Lincoln Unified School District (District) in Stockton, California. Jayden collapsed due to extreme exhaustion and dehydration, and suffered permanent injuries as a result.

Jayden's mother, Ms. Jones, timely submitted a claim on Jayden's behalf to the District in November 2017, alleging the District was liable to Jayden for his injuries. In November 2017, Ms. Jones also engaged Jayden's attorney to represent her in her own claim against the District, based on the realization that Jayden's injuries may be lifelong and may require Ms. Jones' ongoing care. Ms. Jones, like Jayden, had six months from the date of injury to present her claim to the District but did not do so until March 2, 2018, when she submitted an application to the District seeking an exception to the six-month limit to present the claim on her own behalf. Ms. Jones submitted with her application the facts forming the basis for her legal argument, including that she initially did not file the claim for herself because she believed that Jayden would recover from his injuries; that she was so upset and concerned about him that she was not thinking about herself; and once she realized he may not fully recover, she determined that she too had a claim, as Jayden's sole caretaker. The District did not respond to Ms. Jones' application, and therefore it was deemed denied.



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In July 2018, Ms. Jones filed a petition for relief from the claim presentation requirement in superior court, using the same factual explanation that she had included in her application to the District. The District introduced evidence contradicting Ms. Jones' claims that she was previously unaware of the extent of her son's injuries, and the extent to which she would suffer long-term effects from Jayden's injuries. Ms. Jones' attorney filed a supplemental declaration, in which he introduced a new factual theory as to why the petition should be granted. The attorney stated that Ms. Jones had hired him to represent her in November 2017, and due to a highly unusual internal error, his office had failed to timely submit Ms. Jones' claim. The court granted the petition, based upon the new facts alleged by Ms. Jones' attorney in the supplemental declaration. The court rejected the District's argument that the same factual basis must be alleged in the application submitted to the District as the facts alleged in the petition for relief submitted to the court. The District appealed.

On appeal, the court decided that the facts included as the basis for Ms. Jones' application to the District seeking an exception to the six-month limit to present the claim must be the same as the facts then presented to the trial court in the corresponding petition for relief from the claim presentation requirement. The lower court was overruled, and Ms. Jones' claim against the District was barred from proceeding. Having prevailed in its appeal, the District was relieved of liability as to Ms. Jones.

## Takeaways

*Lincoln USD v. Superior Court* bolsters the resources available to an accused public entity when a plaintiff has missed the six-month deadline to present their claim and is seeking an exception to the rule, strengthening the overall effect of the Government Claims Act. Under this case, a plaintiff has one opportunity to develop their theory as to why they should be granted an exception to the timeline for filing a claim — they cannot change their story once they get into court.

If you have any questions about the *Lincoln USD* case or the Government Claims Act in general, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).