



THE DATE OF A PUBLIC ENTITY'S DENIAL OF LEAVE TO PRESENT A LATE CLAIM MUST BE INCLUDED IN THE NOTICE OF DENIAL

The Government Claims Act (Gov. Code, §§ 810 *et seq.*) generally requires a person seeking to bring a lawsuit against a public entity to first provide a written notice of his or her claim to the public entity no later than six months after the accrual (or discovery) of such a claim for injury to person or personal property. Other claims, such as breach of contract, must be presented no later than one year after the accrual or discovery. If a claim is not timely brought to the public entity, a person is permitted to apply to the public entity's board for leave to present a late claim. If the governing body denies the application for leave, the person has six months *from the date of the board's denial* to file a petition with the court to seek leave to file a court action.

In *D.C. v. Oakdale Joint Unified School District, et al.* (March 1, 2012) ___ Cal.App. ___ (2012 WL 662461), a question was raised as to whether a public entity was required to include the actual date of the board's denial of leave in its notice of denial. The court of appeals held that notice of denial of leave to file a late claim must include the actual date of denial. Failure to include the date of denial within the notice may prevent a public entity from relying upon the six month statute of limitations defense to preclude a petition for relief to a court after denial of the request for leave.

D.C. attempted to present a late claim to Oakdale Joint Unified School District regarding the District's alleged mishandling of his behavioral difficulties. On April 28, 2010, D.C. submitted application for leave to present his late claim. On May 10, 2010, the District's board of trustees denied D.C.'s application.

The District provided D.C. with a rejection notice on June 9, 2010. The rejection notice did not include the May 10, 2010 date of the Board's denial.

On December 3, 2010, less than six months from June 9, 2010 (the date of the notice of rejection), D.C. filed a petition with the trial court for an order to relieve him of the claims filing requirement set forth in the Government Claims Act. The trial court ruled that the petition was untimely because D.C. filed it more than six months from the Board's denial on May 10, 2010.

On appeal, the appellate court reversed the trial court's findings. The court of appeals determined that the obvious intent of the late claim notice provision of the Government Claims Act is to provide the applicant the information needed to file a timely petition with the court to seek leave. As such, the court stated that the notice must contain not only information as to whether the board denied or granted the application, but also the date that decision was actually made.

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The court reasoned that without more, an applicant may be misled to believe the board's decision was made on the date of the rejection notice. In addition, the court determined that the failure to include the date of the board's denial in the late claim notice would estop a public entity from relying on the six month statute of limitations period for an applicant to petition for relief from the claims presentation requirement.

In light of the court of appeal's decision, California public entities should, as a matter of course, include the date of their governing board's decision to reject or grant an application for leave to file a late claim, or they may be estopped from pursuing a statute of limitations defense in court.

If you have any questions regarding this decision or the Government Claims Act in general, please do not hesitate to contact one of our [eight offices](#) located statewide, visit our [website](#), or follow Lozano Smith on [Facebook](#).

Written by:

[Mark Kitabayashi](#)

Shareholder

Los Angeles Office

mkitabayashi@lozanosmith.com

[Carrie M. Kurtural](#)

Associate

Fresno Office

ckurtural@lozanosmith.com



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