



MUNICIPAL TORT AND CIVIL RIGHTS LITIGATION UPDATE FALL 2026



CASES

California Municipal Tort Liability

Harland v. City of West Hollywood, 120 Cal. App. 5th 1166 (2026)

Sargenti v. City of Long Beach, 120 Cal. App. 5th 702 (2026)

Pagan v. City of San Rafael, 119 Cal. App. 5th 853 (2026)

City of Riverside v. RLI Insurance, 119 Cal. App. 5th 405 (2026)

Yan v. City of Diamond Bar, 119 Cal. App. 5th 21 (2026)

Khedr v. Superior Court, 121 Cal. App. 5th 885 (2026)

Eagle Colton 55, LP v. City of Colton, 121 Cal. App. 5th 1143 (2026)

Police Liability

Gonzalez v. City of Phoenix, 163 F. 4th 1289 (9th Cir. 2026)

Fuhr v. City of Seattle, 175 F. 4th 1081 (9th Cir. 2026)

Rios v. City of Azusa, 2026 U.S. App. LEXIS 25165 (9th Cir. 2026)

Harland v. City of West Hollywood,
120 Cal. App. 5th 1166 (2026)

- Claimant cannot sue a public entity until they have complied with the claim filing requirement and the entity has either outright denied the claim or failed to act on the claim within 45 days.
- Filing suit against a public entity before the 45-day response period under the Claims Act expires cannot be cured by voluntarily dismissing the action and refiling a new lawsuit later.
- *Malear v. State* is a narrow exception that only applies if the prematurely filed complaint has not been served on the public agency, because the agency had not been forced to incur costs of litigation.
- The 45-day hold is increased to 50 days if the claim is served by mail.

Sargenti v. City of Long Beach,
120 Cal. App. 5th 702 (2026)

- Unauthenticated historical Google “street view” images of a defective sidewalk condition cannot create an issue of fact to defeat a motion for summary judgment brought by a public entity based on absence of notice.
- Plaintiff cannot wait and cure the foundational defects at trial.
- Code of Civil Procedure section 437c requires the evidence relied on in supporting or opposing papers be admissible.

Pagan v. City of San Rafael, 119 Cal. App. 5th 853 (2026)

- To allege a claim for dangerous condition, plaintiff must specify in what manner the condition constituted a dangerous condition.
- Public entities are not required to post warnings to motorists of visible roadway elements and weather conditions.





*City of Riverside v.
RLI Insurance,*
119 Cal. App.
5th 405 (2026)

- City can properly name both consultant and the consultant's liability insurer as cross-defendants where it is a first-party additional insured under the consultant's insurance policy
- An additional insured in direct contractual privity with the insurer may assert direct breach of contract and bad faith claims in the same lawsuit against the insurer.

Yan v. City of Diamond Bar, 119
Cal. App. 5th 21 (2026)

- Evidence of prior accidents on public property may be relevant to prove one of two elements of a dangerous condition claim: (1) the public property was in a “dangerous condition,” or (2) the public entity had actual or constructive notice of that condition.
- Prior tree failures can be admitted solely to establish notice as long as they are “similar enough” to attract a City’s attention and impart notice of a condition requiring correction.

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**CLAIM FOR DAMAGES AGAINST
PUBLIC ENTITY**
[Government Code § 910 and § 910.2]

NAME OF CLAIMANT: _____

ST OFFICE ADDRESS: _____

ST OFFICE ADDRESS TO WHICH PERSON PRESENTING THE CLAIM DESIRES
CES TO BE SENT: _____

TE OF INJURY DAMAGE LOSS OR OBLIGATION: _____

***Khedr v.
Superior
Court, 121
Cal. App. 5th
885 (2026)***

- Government Code section 910 subdivision (c) requires the notice include the date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.
- The claim must provide a specific date or a date range of the wrongful conduct alleged in the claim form.
- Stating the date as 'Numerous—Loss is ongoing,' does not constitute substantial compliance with section 910



***Eagle Colton
55, LP v. City
of Colton,
121 Cal. App.
5th 1143
(2026)***

- The Act's claim presentation provision requires actual receipt by the board of the local public entity.
- Delivering a letter to one council member at a private meeting away from city hall, and where the member did not recognize the letter as a claim and did not forward it to the city clerk or the city council, is not the equivalent of actual receipt by the "board" or "governing body."



Gonzalez v. City of Phoenix, 163 F. 4th 1289 (9th Cir. 2026)

- A reasonable jury could determine the officers violated Decedent's constitutional rights by placing and transporting him in a hogtied and prone position after he surrendered and no longer posed a danger to the officers.
- *Drummond v. City of Anaheim* clearly established that "in a situation in which an arrestee surrenders and is rendered helpless, any reasonable officer would know that a continued use of force or a refusal without cause to alleviate its harmful effects constitutes excessive force."

Fuhr v. City of Seattle,
175 F. 4th 1081 (9th
Cir. 2026)

- A qualified immunity inquiry has two prongs, which can be addressed in either order.
- Under the first prong, the court must consider whether the facts demonstrate violation of a constitutional right. The second prong asks whether that right was clearly established at the time of the officer's conduct.
- Officers do not violate clearly established right when shooting suspect who discharged firearm in public then fled and ignored commands and advanced while holding infant.

, et al. v. City of Azusa, et al.

*Rios v. City of
Azusa*, 2026

U.S. App. LEXIS
25165 (9th Cir.
2026)

- In an interlocutory appeal from an order denying a motion for summary judgment on the basis of qualified immunity, the court may consider whether the facts establish a violation of a clearly established constitutional right.
- However, under the Supreme Court decision *Johnson v. Jones*, courts of appeal may not review a portion of a district court's summary judgment order that, though entered in a qualified immunity case, determines only a question of evidence sufficiency, i.e., which facts a party may or may not be able to prove at trial.



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