LEAGUE OF CALIFORNIA CITIES

Essential Hour: Your First Claim for Damages

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TOOLKIT

ESSENTIAL HOUR — TACKLING YOUR FIRST GOVERNMENT TORT CLAIM

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I. PURPOSE OF THE TOOLKIT

This toolkit is designed as a reference for new city attorneys and assistant city attorneys who are handling a tort claim for the first time, or who want to audit and tighten up their agency's claims-handling procedure. It covers the statutory basics, walks through the claim lifecycle step by step, flags the issues that most often trip up new practitioners, and closes with a master checklist and quick-reference timeline that can be printed and kept at hand.

II. THE BASICS

a. What It Is and Why It Exists

- Claim process requires presentation of claim for money damages . . . (Gov. Code § 905.)

  Purposes of the Claims Act:

  - Provide the public entity with sufficient information to enable it to thoroughly investigate the claim;
  - Facilitate settlement of meritorious claims;
  - Enable the public entity to engage in fiscal planning;
  - Avoid similar liability in the future.

  Westcon Construction Corp. v. County of Sacramento *(2007) 152 Cal.App.4th 183, 200.*

b. When a Claim Is Required

- Generally required before suit for money damages against a public employee or agency, most commonly tort and breach of contract claims.
  - Also applies to claims for local tax refunds. (*McWilliams v. City of Long Beach* (2013) 56 Cal.4th 613; but see Gov. Code § 905(a) [claim presentation requirements do not apply to claims under the Revenue and Taxation Code or other statute prescribing the procedure for tax refunds].)
- Not required for claims listed in Government Code section 905, including:
  - Certain tax refund claims
  - Monetary suits for principal and interest on bonds
  - Claims by public employees for salaries, wages, and other expenses and allowances
  - Workers' compensation claims
  - Claims covered by other statutes
- Not required for claims brought under some statutes that might not be listed in Section 905 (e.g., FEHA)
- Not required for federal causes of action

- Not required for non-monetary claims, including claims for return of property, injunctive or declaratory relief, or writs of mandate

c. Presentation Deadlines

- Depends on the type of claim:
  - 6 months for death, personal injury, or personal property
  - 1 year for everything else (real property, contract-related)
- When does a claim "accrue"? Same date as an action would accrue against a private party — i.e., when the wrongful act is done and the obligation or liability arises.

d. Minimum Content of a Claim

Gov. Code § 910 requires:

- The name and post office address of the claimant.
- The post office address to which the person presenting the claim desires notices to be sent.
- The date, place, and other circumstances of the occurrence or transaction that gave rise to the claim asserted.
- A general description of the indebtedness, obligation, injury, damage, or loss incurred so far as it may be known at the time of presentation of the claim.
- The name(s) of the public employee(s) causing the injury, damage, or loss, if known.
- The amount claimed if it totals less than ten thousand dollars ($10,000) as of the date of presentation, including the estimated amount of any prospective injury, damage, or loss insofar as known, together with the basis of computation. If the amount claimed exceeds $10,000, no dollar amount shall be included — but the claim must indicate whether it would be a limited civil case.

Claims are construed liberally, but an agency may require use of its own claim form (§ 910.4).

e. Presentation and Delivery

The presentation and delivery requirements for government tort claims are codified in Gov. Code § 915(a). A claim is not legally "presented" just because it arrives in a city building. To trigger the statutory clock and satisfy the mandatory pre-suit condition, the claim must be delivered or mailed to one of the specific gatekeepers designated by law.

The Designated Recipients: Under Section 915(a), the claim must be presented by either:

- Delivering it personally to the clerk, secretary, or auditor of the public entity;
- Mailing it to the clerk, secretary, auditor, or to the governing body at its principal office; or
- If authorized by an ordinance or resolution of the public entity, submitting it electronically in the manner specified in the ordinance or resolution.

The "Mailed-to-the-Wrong-Place" Exception: Under Section 915(e), if a claimant mistakenly delivers a claim to an unauthorized department (e.g., Public Works or the Police Department), it is still deemed properly presented *if and only if* the misdirected claim is actually forwarded to, and received by, the City Clerk or governing body within the statutory time frame.

Proof of Service Matters: If mailed, presentment is complete upon deposit in the United States mail (Gov. Code § 915.2). The city's timeline calculation hinges entirely on the postmark date, not the day it physically lands in the city's inbox.

III. STEP BY STEP — HANDLING A CLAIM FROM INTAKE TO RESOLUTION

1. Log and Date Stamp Immediately

The moment a document resembling a claim is received, staff should immediately date-stamp it.

Preserve the Envelope — Crucial Practice Tip: Staple the postmarked envelope directly to the back of the claim. Under Section 915.2, the postmark is the definitive evidence of the presentation date. If the envelope is discarded, you lose your best evidence for an untimeliness defense.

Establish the Two Internal Tracks: Immediately log the receipt date into your risk management system and simultaneously calendar two separate drop-dead dates:

- **The 20-Day Sufficiency Window:** The deadline to review the content and issue a Notice of Insufficiency under Section 910.8.
- **The 45-Day Action Window:** The deadline for the City Council or risk manager to formally accept, reject, or allow the claim to be rejected by operation of law under Section 912.4.

2. Determine Whether the Document Is Actually a "Claim"

The purpose of the claim requirement is to:

- Put the public agency on notice; and
- Provide it with sufficient detail to enable it to investigate the claim's merits and, if appropriate, attempt settlement.

But substantial compliance with the claims requirement is all that is required, so claims may be general and vague.

To substantially comply, a claimant must attempt to supply each of the essential elements of a claim from Government Code section 910 (above). However, a material defect or omission in a claim precludes a finding of substantial compliance. Examples of a material defect or omission include:

- Failure to designate the location of the accident
- A letter from a potential claimant's attorney to a city employee alleged to have caused a car accident, indicating that the attorney was investigating and seeking information about the accident and insurance coverage

Actual knowledge of the circumstances surrounding a claim will not cure a material defect or omission.

There are two components of the test for substantial compliance:

- Is there some compliance with all the statutory requirements? If so,
- Is that compliance sufficient to constitute substantial compliance?

Practice tip: Err on the side of caution and treat almost everything as a claim.

3. Check Jurisdiction

Before analyzing the merits, verify whether your city is actually the responsible public entity.

Practical questions to ask:

- *Geographic Boundaries:* Did the incident occur within your city's incorporated limits? If the injury occurred in an unincorporated area or on an island of county land, the County is the responsible entity.
- *Overlapping Roadways:* Was the injury sustained on a state highway, a freeway off-ramp, or a county-maintained boundary road? If so, Caltrans or the County likely holds sole maintenance jurisdiction.

The Multi-Agency Trap: Pothole injuries, trip-and-falls on sidewalks near jurisdictional borders, or multi-vehicle accidents frequently involve overlapping jurisdictions (e.g., Caltrans, the County, an adjacent city, or a local transit district).

Action Item: If the incident occurred on a state highway or a county-maintained road, your city lacks jurisdiction. Do not simply ignore it — reject the claim and explicitly note in your rejection notice that the city is not the proper public entity, pointing the claimant toward the correct agency if known. This builds a clean record for a quick motion for summary judgment if they sue anyway.

4. Check Timeliness

If untimely, take no action and reference Step 4 in Section V below on how to handle a late claim.

5. Check Sufficiency of Content

Under Government Code § 910.8, if the claim does not provide the required information, the entity may give notice of the insufficiency, stating the defects with particularity. This sounds permissive — it is not.

If a public entity fails to give written notice of the defect or omission within 20 days after the claim is presented, it waives any defense it may have, even if a claim does not contain the required information. The only exception to the waiver is when no address is provided to which notice can be sent.

- If the claim was filed electronically, a notice of insufficiency may be sent to the claimant electronically at the same electronic address used by the claimant, unless the claim specifies a different electronic address.
- The word “presentation” is a technical term, meaning the date the claim was deposited in the mail or submitted electronically, when expressly permitted.
- For mailed claims, waiting until 20 days after the claim is received will be fatal. Agencies should calendar the mailing of notices of insufficiency to account for the uncertainty as to when a claim was “presented.”

The entity may not take action on a claim for 15 days after sending a notice of insufficiency.

6. Evaluate the Merits & Route Internally

If a claim is jurisdictionally proper and legally sufficient, you must immediately transition to evaluating its underlying merits. This requires routing the claim to the specific internal city departments that oversee the operations or property involved so they can evaluate the claim and provide an internal, confidential claim response for your review.

Identify the Relevant Department (Examples):

- *For Police Misconduct:* Route the claim to the Police Department's internal affairs or risk management division to review incident logs and body-worn camera footage.
- *For Potholes / Property Damage:* Route the claim to the Public Works or Street Maintenance Department to pull historical repair logs, pavement management indexes, and records of any prior notice of the defect.
- *For General Liability / Employment:* Route the claim to Human Resources or the specific department where the alleged incident occurred.

Because you only have 45 days to formally act on a claim, you must enforce strict internal deadlines with city staff when routing to departments.

Pro Tip: Complete your initial jurisdictional screening and sufficiency review within the first 5 days of receipt, then route the claim to the target department with a hard 2-week (14-day) deadline to return its internal claim response. This leaves you nearly 4 weeks to analyze the response, talk to the departments, brief executive leadership or Council, and execute your final disposition before the statutory 45-day window closes, as discussed in Step 7 below.

7. Decide Which Action to Take

Response to a claim depends on your evaluation of liability and damages. It might also depend on the cost of defense.

- **Accept and settle:** Consider this if liability appears very likely and the damages claimed appear reasonable. Also consider this if the cost of defense would exceed the claim amount.
- **Reject:** Consider this if there is no basis for liability (e.g., improper jurisdiction) or if the claimant is unlikely to establish liability (e.g., cannot establish an element of the cause of action, or comparative negligence).
- **Tolling agreement to continue negotiating:** Consider this for more complex cases requiring detailed investigation and/or document review, or for cases you want to settle but cannot yet agree on a settlement amount.

8. Send Required Notice

When serving notices under the Government Claims Act, use the precise statutory warning language required by the applicable section. Failure to provide the required language may affect the claimant's deadline to file suit.

8.1. Notice of Rejection — Gov. Code §§ 913, 913.2

If the agency formally rejects a claim, the written notice must include the warning language required by § 913(b). A compliant rejection notice triggers a six-month deadline to file suit from the date the notice is personally delivered or deposited in the mail (§ 945.6(a)(1)).

Mandatory Section 913(b) Text:

> *"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. 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."*

Partial Allowance: If a claim is allowed in part and rejected in part, the notice must state the exact amount allowed and the exact amount rejected (§ 913(a)).

Missed 45-Day Deadline: If the agency fails to act within 45 days, the claim is deemed rejected by operation of law (§ 912.4). The agency should still issue a compliant written rejection notice as soon as possible to trigger the 6-month suit period under § 945.6(a)(1). If no compliant rejection notice is served, the claimant may have up to 2 years from accrual to file suit (§ 945.6(a)(2)).

8.2. Notice of Late Claim Return — Gov. Code § 911.3

If an untimely claim is presented without a late-claim application, the agency must return the claim as untimely and not act on the merits. The return notice must contain the exact warning language required by § 911.3(a).

Mandatory Section 911.3(a) Text:

> *"The claim you presented to the (name of public entity) on (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 the (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."*

Failure to provide the required return notice within 45 days waives the agency's ability to object to the untimeliness of the claim (§ 911.3(b)).

8.3. Service Requirements for Notices

The city must strictly satisfy the following delivery criteria:

- **Recipients:** Deliver or mail the notice directly to the address specified in the claim to which the claimant requests notices be sent. If no such address is specified, mail it to the claimant's address specified in the claim (Gov. Code § 915.4(a)). If the claim states neither address, no notice need be given, and no waiver of the timeliness or sufficiency defense results. See Gov. Code §§ 911.3(b), 911.
- **Method of Delivery:** Serve either by personal delivery or by standard U.S. mail (Gov. Code § 915.4(a)). Under Government Code § 915.2, service by mail is complete upon deposit in the United States post office or a mailbox, which anchors the timing calculations.

- **Proof of Service:** Attach a formal, executed Proof of Service by Mail (Code Civ. Proc. § 1013a). This document serves as the city's definitive, legally binding proof of the exact date the notice was deposited in the mail, which triggers and anchors the claimant's strict 6-month litigation clock (Gov. Code § 945.6(a)(1)).

9. Calendar the Resulting Limitations Period

Once a formal notice has been served or a deadline has passed, your final risk management step is to calendar the outer boundaries of the city's litigation exposure. The deadline for a claimant to file a lawsuit depends entirely on how and when the city responded to the claim.

- **If a Notice of Rejection Was Served:** If the city timely served a compliant written Notice of Rejection under Section 913, the claimant has exactly six (6) months from the date the notice was personally delivered or deposited in the mail to file a lawsuit (Gov. Code § 945.6(a)(1)).
- **If the Claim Was Rejected by Operation of Law:** If the city took no formal action within the statutory 45 days, the claim is deemed rejected by operation of law on day 45. In this scenario, the claimant has two (2) years from the date the cause of action accrued to file a lawsuit (Gov. Code § 945.6(a)(2)).

Practice Tip: Do not just calendar the claimant's filing deadline. Use the executed Proof of Service from Step 8 to calculate the exact calendar date the six-month clock expires, and log a warning tickler in your risk management database 30 days prior to that date to monitor the court dockets for a newly filed summons and complaint.

IV. EVALUATING THE CLAIM FOR DEFENSES/IMMUNITIES

Evaluating whether the agency may have defenses/immunities to a claim helps to dictate whether the claim will be accepted and settled or rejected, which may lead to litigation. Typically, if an agency determines it has strong defenses/immunities to the allegations in a claim, the agency will either: (1) reject the claim without mentioning the defenses or immunities and see if the claimant pursues a lawsuit, in which case the claim and the department's claim response will help guide the city's litigation strategy; or (2) cite the potential defenses and immunities in an attempt to negotiate the claimant's demand for damages and avoid litigation, if possible.

a. Dangerous Condition of Public Property — Gov. Code § 835

Elements — CACI 1100:

> *1. That [name of defendant] owned [or controlled] the property; 2. That the property was in a dangerous condition at the time of the injury; 3. That the dangerous condition created a reasonably foreseeable risk of the kind of injury that occurred; 4. [That negligent or wrongful conduct of [name of defendant]'s employee acting within the scope of employment created the dangerous condition;] [or] [That [name of defendant] had notice of the dangerous condition for a long enough time to have protected against it;] 5. That [name of plaintiff] was harmed; and 6. That the dangerous condition was a substantial factor in causing [name of plaintiff]'s harm.*

Other helpful jury instructions and definitions:

- CACI 1102 [Definition of "Dangerous Condition"]
- CACI 1103 [Notice]
- CACI 1104 [Inspection System]

1. Common Issues in Evaluating Section 835 Liability

Is there a dangerous condition of property being alleged?

- It's not sufficient for the claimant to have been injured on public property; the injury must have been caused by a physical condition of public property. (*Zelig v. County of Los Angeles* (2002) 27 Cal.4th 1112, 1135–1137; *Hernandez v. City of Stockton* (2023) 90 Cal.App.5th 1222, 1230.)
- The property must create a "substantial risk of injury" when it is used with reasonable care and in a reasonably foreseeable manner. (Gov. Code § 830(a).) A plaintiff's violation of law may be a defense.

Has the claimant established notice?

- The claimant must show notice of the specific dangerous condition at issue — it's not sufficient to show notice of an issue in general. For example, the agency must have had notice of the specific sidewalk defect the claimant tripped over; general notice that sidewalk defects existed throughout the jurisdiction is not enough. (See *State v. Superior Court* (1968) 263 Cal.App.2d 396, 399 [state employees were aware members of the public left hot coals on the beach, but the state did not have notice of the particular coals that caused plaintiff's injury].)
- Constructive notice isn't as broad as claimants typically allege. The claimant must show that (1) the dangerous condition existed for a sufficient period of time, and (2) the danger posed by the condition was obvious to the public agency. (Gov. Code § 835.2(b); see also *Heskel v. City of San Diego* (2014) 227 Cal.App.4th 313 [plaintiff failed to show a protruding metal base was obvious, having presented no evidence of its size or visibility from public streets]; *Martinez v. City of Beverly Hills* (2021) 71 Cal.5th 508, 519–521.)
- Public agencies do not have a duty to keep their property free from all defects. (*Whiting v. National City* (1937) 9 Cal.2d 163, 165 ["It is a matter of common knowledge that it is impossible to maintain a sidewalk in perfect condition."].)

Common Immunities:

- **Trail Immunity (Gov. Code § 831.4):** Immunity from liability for injuries caused by the condition of a trail. (*Toeppe v. City of San Diego* (2017) 13 Cal.App.5th 921, 925–931 [even though plaintiff was using a trail at the time of her injury, immunity did not apply because her injury was caused by a fallen tree branch, not by a condition of the trail].) Note: trail immunity applies to paved paths and bike trails. (See, e.g., *Amberger-Warren v. City of Piedmont* (2006) 143 Cal.App.4th 1074 [paved walkway at dog park is a trail for which immunity applies].)
- **Design Immunity (Gov. Code § 830.6):** Requires (1) a causal relationship between the plan or design and the accident; (2) discretionary approval of the plan or design prior to construction; and (3) substantial evidence supporting the reasonableness of the plan

or design. (*Cornette v. Department of Transportation* (2001) 26 Cal.4th 63, 69; see also CACI Nos. 1123–1124.)

2. **Other Immunities / Defenses (Gov. Code §§ 830–831.9)**
   - Immunity for natural condition of unimproved public property (§ 831.2)
   - Immunity for failing to provide traffic control signals (§ 830.4)
   - Immunity for failing to provide traffic warning signals, signs, or markings (§ 830.8)
   - No public entity liability for failing to provide street lights. (*Mixon v. Pacific Gas & Electric Co.* (2012) 207 Cal.App.4th 124, 134 [public entity has no duty to light its streets].)

3. **Common Issues in Evaluating Damages**
   - The appropriate measure of damages for medical treatment is the cost paid for, or on behalf of, the claimant, NOT the amount billed by the medical provider. (*Howell v. Hamilton Meats & Provisions, Inc.* (2011) 52 Cal.4th 1130.)

b. Potential Immunities Regarding Claims Involving the Police

When evaluating claims arising out of police operations (pursuits, arrests, or use of force), the Government Claims Act provides powerful, explicit statutory protections that can defeat a claim long before it reaches a jury.

- **Vehicle Pursuits (§ 17004.7):** If your city has adopted a comprehensive, written vehicle pursuit policy that complies with statutory guidelines and provides regular training to officers, the city is completely immune from liability for collateral damage or injuries caused by a fleeing suspect, absent a showing of negligence.
- **Discretionary Acts (§ 820.2):** Public employees (and, by extension, the city via vicarious liability under § 815.2) are immune from liability for injuries resulting from acts or omissions that are the result of "discretion vested in him." This covers high-level tactical choices but rarely covers the operational execution of those choices.
- **Institution of Judicial/Administrative Proceedings (§ 821.6):** Public employees are immune from liability for injuries caused by diagnosing, instituting, or prosecuting any judicial or administrative proceeding within the scope of their employment. This is an absolute shield against malicious prosecution claims.
- **The "No Separate Liability" Rule:** Under Section 815, there is no common law tort liability for public entities in California. A city can only be held liable if a specific statute creates liability. If the individual officer is immune, the city is generally immune (§ 815.2(b)).

c. High Damages Claims

- Attempt early settlement.

V. COMMON ISSUES AND PRACTICAL GUIDANCE

a. Missed the 45-Day Action Deadline

If the entity fails to act on a claim within the period allowed by statute (or as extended by agreement), the claim is deemed rejected on the last day of the period. Once the claim is deemed rejected, the claimant may file suit.

- If written notice is not given that the claim was rejected or deemed rejected, a 2-year statute of limitations applies, running from the accrual of the cause of action.
- However, an entity is permitted to act on a claim after the expiration of the time to act, and may still send a notice of rejection to trigger a shorter 6-month limitations period.

Practice tip: If the claim is timely filed, the entity may consider taking no action so that the longer period in which the claimant can file a lawsuit is available.

- This may minimize litigation costs by extending the time for the parties to engage in settlement discussions and for the claimant's medical condition to stabilize, if applicable.
- If this strategy is not successful, a notice of rejection can then be sent to trigger the 6-month statutory limitations period and move the claim forward.

b. The Claim Was Presented Late

If a personal injury claim lands on your desk 7 months after the accident, it is late on its face.

- **The Strict 45-Day Response Window:** You must return the claim as untimely within 45 days of receipt by sending a specific Notice of Late Return (Gov. Code § 911.3).
- **The Waiver Trap:** If you fail to give this notice within 45 days, the city waives its right to object to the untimeliness of the claim and is forced to defend it on the merits. This is one of the most important deadlines to calendar.
- **The Application for Leave to Present a Late Claim (§ 911.4):** Upon receiving the late notice, the claimant has up to 1 year from the accrual date to petition the city council for "leave to present a late claim." The city must grant this only under narrow statutory exceptions (mistake, inadvertence, surprise, excusable neglect, or minority/incapacity) and where the city is not prejudiced.
- **The Court Petition Requirement (§ 946.6):** If the city denies the application (or lets it lapse as a "deemed denial" after 45 days), the claimant cannot yet file a lawsuit; they must first petition the Superior Court for relief within 6 months of the denial. To win, the claimant must prove to a judge that the delay was due to a statutory exception (like excusable neglect or minority) and that the city is not prejudiced. If the court grants relief, the claimant has a strict 30-day deadline to file the lawsuit in civil court.

c. The Claim Was Presented to the Wrong Department or Wrong Entity

- Government Code § 915 requires a claim to be delivered or mailed to the clerk, secretary, auditor, or governing body of the local public entity.

- It is not sufficient for the claimant to deliver the claim to another public employee whose job duties include the management or defense against claims. (*DiCampli-Mintz v. County of Santa Clara* (2012) 55 Cal.4th 983, 987.)
- However, actual receipt by a person specified in the statute is sufficient, even if the claimant had misdelivered the claim.

d. Multiple Claimants, Minors, and Subrogated Insurers

Handling government claims becomes more complex when an incident involves more than one injured party, a claimant under the age of 18, or an insurance company seeking reimbursement.

- **Multiple Claimants (No Coattails):** Each injured individual seeking damages against a public entity must timely present their own claim under the Government Claims Act. A claimant generally may not rely on a claim presented by a spouse, family member, or co-passenger merely because the claims arise from the same incident. The individual's own claim must be presented, or the individual must be clearly identified as a claimant — otherwise the individual's action may be barred. See *Nguyen v. Los Angeles County Harbor/UCLA Medical Center* (1992) 8 Cal.App.4th 729, 734–735; *Nelson v. County of Los Angeles* (2003) 113 Cal.App.4th 783, 796–797.
- **Minors (Lenient Window, Absolute 1-Year Bar):** Minors remain subject to the six-month claim presentation deadline under Gov. Code § 911.2. If the claimant was a minor during the entire six-month claim period, the public entity must grant a late-claim application under § 911.6(b)(2), provided the application is presented within one year after accrual (§ 911.4(b)). If the claimant was a minor during only part of the six-month period, the public entity must grant the application under § 911.6(b)(3) if presented within the earlier of six months after turning 18 or one year after accrual. The deadline is not automatically tolled until age 18. (Gov. Code §§ 911.4(b), 911.6(b)(2)–(3).)
- **Subrogated Insurers (Derivative Clock):** A subrogated insurer's claim is derivative of the insured's rights and is subject to the same Government Claims Act accrual rules as the underlying claim. The insurer “stands in the shoes” of the insured and generally acquires no greater rights than the insured possesses. (*State Farm v. Wells Fargo Bank* (2006) 143 Cal.App.4th 1098, 1106; Gov. Code §§ 901, 911.2.) An insurer's later payment of the loss, or discovery of its subrogation rights, does not restart the claim period. When an agency receives claims from both the insured and a subrogated insurer arising from the same incident, it should process each claim separately, confirm compliance with the Act, and ensure any settlement or payment accounts for both interests to avoid duplicative recovery.

e. Amending a Claim

- A claim may be amended at any time before the claim period expires or the entity takes final action on the claim, whichever is later, as long as the amended claim relates to the same transaction or occurrence that gave rise to the original claim.
- When a claim is amended, the time for taking action on the claim is extended to 45 days after presentation of the amended claim.
- If the amended claim comes in after the claim period expires or the entity has taken final action, then it is untimely and no action needs to be taken.

Practice tip: Do not send another Notice of Insufficiency on the amended claim if you've already sent one on the original claim.

VI. QUICK REFERENCE MASTER CHECKLIST

1. Intake & Sufficiency Audit

☐ Track date of presentation: Verify exact delivery method/date (§ 915). Mark the envelope/proof of service. Calculate the 45-day deadline.

☐ Audit statutory timeliness of claim:

- Injury / Property Damage / Death: must be presented within 6 months of accrual (Gov. Code § 911.2).
- Breach of Contract / Real Property: must be presented within 1 year of accrual (Gov. Code § 911.2).

☐ Check facial sufficiency (§ 910):

- Claimant name & address — Notice address — Date/place/circumstances of incident
- Description of injury/damage — Employee names (if known)
- Dollar amount: if under $10,000, exact computation. If over $10,000, specify jurisdiction (limited vs. unlimited civil).

2. Notices & Defect Handling

☐ Notice of Insufficiency (§ 910.8): If elements under § 910 are missing, give written notice within 20 days of presentation or face waiver of the defect defense (§ 911). Hold action for 15 days post-notice to permit claimant updates.

☐ Late Claim Applications (§ 911.4): If past the 6-month limit, claimant may apply for leave within 1 year of accrual. The board has 45 days to grant/deny based on mistake, inadvertence, surprise, excusable neglect, or minority/incapacity.

3. Departmental Evaluation Routines & Evidence Preservation

Route claims to relevant operating departments for evaluation as soon as possible.

☐ All involved departments: Issue a litigation hold immediately. Order preservation of emails, texts, internal memos, CAD logs, and field notes. Set a strict 14-day departmental documentation return deadline.

☐ Public Works / Streets: May request a multi-year history of work orders, logs, inspection routes, maintenance records, and prior complaints to build a statutory ‘lack of notice’ defense (Gov. Code § 835).

☐ Police Department: Secure body-worn camera (BWC) footage, CAD printouts, 911 audio, incident reports, traffic collision reports, and supervisor force reviews.

☐ Risk Management: Check policy thresholds, self-insured retention (SIR) limits, and cross-reference prior claim history indices.

4. Evaluating Claim for Defenses/Immunities

☐ Dangerous Condition of Public Property (§ 835): Confirm the claim alleges a dangerous condition of public property caused the injury and evaluate whether the entity had actual or constructive notice.

☐ Design Immunity (§ 830.6): For property defect claims, determine whether the condition resulted from an approved design supported by substantial evidence of reasonableness at the time of approval.

☐ Trail Immunity (§ 831.4): Determine whether the claim arises from the existence or use of a public trail or recreational facility protected by statutory immunity.

☐ Police/Fire Privileges (§§ 845, 850, 17004.7): Evaluate whether the claim involves police or fire protection services, including law enforcement vehicle pursuits, and whether applicable statutory immunities or defenses apply.

5. Claim Disposition Procedures

☐ Formal Rejection: Issue written notice using the explicit statutory language dictated in § 913, via certified mail or proof of service. Triggers a strict 6-month statute of limitations for the claimant to file suit (§ 945.6(a)(1)).

☐ Allowance / Partial Settlement: Requires governing board or authorized Risk Manager approval. Draft a full release contract.

☐ Operation of Law (Inaction): Let the 45 days expire. The claim is denied on Day 45 (§ 912.4), triggering an expanded 2-year statute of limitations from the date of accrual to file a lawsuit (§ 945.6(a)(2)). Formal rejection is strongly preferred to limit exposure.

6. Post-Claim Civil Litigation Tracking Index

☐ Exhaustion of Remedies: Verify that a valid tort claim was actually presented and acted upon prior to suit filing (§ 945.4 prerequisite).

☐ The Variance Defense: Compare complaint allegations against the original claim facts. If the lawsuit introduces new factual theories, causes of action, or new defendants not fairly reflected in the claim, file a demurrer or motion for judgment on the pleadings. See § 910.6 and Stockett v. Association of California Water Agencies Joint Powers Insurance Authority (2004) 34 Cal.4th 441, 447.

☐ Suit Timeliness Check: Verify filing dates.

- Formal Rejection: Notice served under § 913 — suit must be filed within 6 months of the date of notice (§ 945.6(a)(1)).
- Operation of Law: No action within 45 days — deemed rejection (§ 912.4); suit must be filed within 2 years from accrual (§ 945.6(a)(2)). If the agency later serves a compliant written rejection notice after the 45-day period expires, the deadline becomes 6 months from that notice.

VII. DEADLINE CHART

Chart prepared with the assistance of ChatGPT and personally reviewed for accuracy, completeness, and relevance.

Event	Deadline and Statutory Authority
Claims Presentation Deadlines	
Present claim (or amended claim) for personal injury / wrongful death or damage to personal property or growing crops	Six months after accrual of cause of action (Gov. Code § 911.2(a); § 910.6(a) [amended claims]).
Present claim (or amended claim) for any other cause of action	One year after accrual of cause of action (Gov. Code § 911.2(a); § 910.6(a) [amended claims]).
Late Claims and Late Claim Application Deadlines	
Claimant applies for leave to present a late claim if the applicable claims limitation period is six months	“Reasonable time,” not to exceed one year after accrual of cause of action (Gov. Code § 911.4(b)).
Public entity acts on application for leave to present a late claim	Within 45 days after application is presented. If no action within 45 days, the application is deemed denied on the 45th day (Gov. Code § 911.6(a)).
Claimant files judicial petition for relief after denial of application to present a late claim	Six months after application is denied (Gov. Code § 946.6(b)).
Public Entity's Response to Claim	
Public entity to provide notice of insufficiency	Within 20 days after claim is presented (Gov. Code § 910.8).
Public entity returns untimely claim (if claimant did not file application for leave to present a late claim)	Within 45 days of presentation of claim (Gov. Code § 911.3).
Public entity to reject, allow, partially allow, or compromise the claim	Within 45 days of presentation of claim (Gov. Code § 912.4(a)).
Claim is deemed rejected if public entity fails to act	Within 45 days of presentation of claim (Gov. Code § 912.4(c)).
Claimant's Deadline for Filing Lawsuit	
Claimant to file lawsuit after written notice rejecting claim under Gov. Code § 913	Six months after notice of rejection is personally delivered or mailed (Gov. Code § 945.6(a)(1)).
Claimant to file lawsuit if public entity did not provide notice of rejection under Gov. Code § 913	Two years after accrual of cause of action (Gov. Code § 945.6(a)(2)).
Claimant to file lawsuit if court grants petition for relief from claims presentation requirement	30 days after the court's order (Gov. Code § 946.6(f)).

VIII. RECOMMENDED RESOURCES

- League of California Cities, Municipal Law Handbook, Chapter 14
- CEB, California Government Tort Liability Practice