

# Making an Injury Claim Under the California Tort Claims Act

If your injury was caused by a government entity or employee in California, including a School District, your claim will follow a unique set of mandatory rules.

Any time you think the government or one its employees might be responsible for your injuries in California you'll need to adhere to a unique set of procedural rules. Under the California Tort Claims Act, your injury claim against the government **must be filed within a strict six-month deadline**, and you need to make sure you provide all necessary information (sometimes on the right form). Examples of torts, include, but are not limited to, Defamation • Personal injury • Damage to personal property • Breach of contract • Damage to real property • Equitable estoppel.

If you do not file your claim within this time period, you may be barred from filing a lawsuit. In some cases, you may be able to ask permission to file a late claim. **Not knowing the law does not constitute an excusable mistake!** A request for permission to file a late claim must be filed within a reasonable time period, not more than one year from the date of injury. The “reasonableness” of the delay is determined on a case-by-case basis.

You can file your claim directly with the entity’s governing board or clerk. Many departments and agencies have their own claim form. If there is no claim form to submit or you run into a dead end, you'll probably need to draft your own "notice of claim" in letter form. Here's what to include, according to the procedure set out in the CTCA:

- \* Your name and mailing address;
- \* The mailing address to which you want notices about the claim mailed;
- \* The date, location, and description of what happened and how you were injured;
- \* A general description of the injury, damage, or loss (including medical costs, lost wages, property damage, and similar losses);
- \* Name of the government employee(s) that caused the injury (if known);
- \* If claimed losses are less than \$10,000, the amount claimed and how it was calculated, and if claimed losses are more than \$10,000, whether any resulting lawsuit would be a "limited civil case" for jurisdiction purposes (a "limited civil case" is generally a lawsuit seeking less than \$25,000 and one where the plaintiff is not seeking an injunction, a determination of title to real property, or enforcement of a Family Code order.)

Only after the government has formally denied your injury claim, or enough time has passed, can you take the matter to court in California. California Law on Injury Claims Against the Government The California Tort Claims Act (CTCA) appears in sections 810 through 996.6 of the California Government Code.

Time Limits for Filing Claims Under the California Tort Claims Act: Before a lawsuit can be filed in California court, the injured person must file a claim with the government agency within six months of the date of injury. The government then has the option to accept or reject the claim, usually within 45 days. What happens next?

If the government rejects all or part of the claim—usually by sending the claimant a "right to sue" letter—or does not respond within 45 days, the injured person is free to file a lawsuit in court. The lawsuit usually must be filed within six months of receipt of any "right to sue" letter. If there's no response from the government after 45 days (no "right to sue" letter or any other form of contact), the claimant usually has two years to get a lawsuit filed against the government (starting on the date of the injury).

Keep in mind that the government may also attempt to negotiate a settlement of the injury claim, just as a private party or insurance company might when faced with a liability claim or lawsuit.

You are not obligated to follow through with a lawsuit if you file a claim, even if your claim is rejected. So it is often wise to provide notice of what happened in order to keep your options open.

Making an injury claim under the California Tort Claims Act can be a complicated endeavor, especially if you're unsure about which government entity might be responsible for your injury, and how to comply with the procedural guidelines.

For advice tailored to your situation, please contact our office.

**The foregoing is for informational purposes only and is not legal advice. If you would like a consultation, please click on [Contact Us](#) and we will schedule an appointment with an appropriate attorney in our firm.**