



# Superior Court of California County of San Benito

## Tentative Decisions for May 30, 2025

**Courtroom #2: Judge Pro Tempore Page Galloway**

**CL-25-00161 California Automobile Insurance Co. v. City of Hollister, et al 5-30-25**

On calendar for Defendant Sunnyslope County Water District's Demurrer. As of 5-27-25 the demurrer is unopposed.

Plaintiff: Tristan P. Espinoza (California Automobile Insurance Company)

Defendant: Michael C. Wenzel (City of Hollister)

Defendant: Colin M. Morris (Sunnyslope County Water District)

This case arises from an event on July 4, 2024, at 631 Randys Circle, in Hollister. Plaintiff is the subrogee of its insured, Ms. Swank, for damages incurred on public property resulting from a dangerous condition, specifically a water line break causing overflow into the Plaintiff's insured's property. The Plaintiff makes their 3-4-25 complaint therefore for a dangerous condition on public property pursuant to Government Code section 835, in the amount of \$23,898.70, along with pre-judgment interest and costs of suit.

5-22-25 Defendant City of Hollister files their answer.

Defendant Sunnyslope County Water District filed their demurrer on 5-2-25.

Argument:

5-2-25 Defendant Sunnyslope County Water District (“Sunnyslope”) generally demurs to the Complaint pursuant to CCP§430.10, et seq. The action against Sunnyslope is barred by Plaintiff’s failure to comply with the California Tort Claims Act. Plaintiff failed to file a claim against Sunnyslope prior to the initiation of this suit under Government Code sections 800, et seq, and 911.2. On or about August 19, 2024, Plaintiff submitted a claim to the Defendant City, with a partially filled City of Hollister Claim Form. The form included a brief description of the underlying events. (Morris Dec. ¶5, ex A.) The claim form itself was addressed only to the City, and makes no mention of Sunnyslope. Moreover, it omits a sum certain, fails to identify any City employee or departments involved in the alleged events, nor states a sum certain. Sunnyslope’s counsel attempted meet and confer pursuant to CCP§430.41 by contacting Plaintiff’s counsel to discuss the basis for their claim that the complaint is deficient. (Morris Dec ¶4.) Demurrer functions to test the legal sufficiency of the challenged pleading. In order to be sufficient, the claim must include a statement of facts, without the aid of other conjectured facts not stated, are sufficient to frame a complete cause of action. Conclusions of law, deductions, or contentions are insufficient. Section 945.4 of the Government Code states in relevant part that “. . .no suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented in accordance with [ . . . ] this division.” A plaintiff’s failure to allege facts “demonstrating or excusing compliance with the claim presentation requirement subjects a claim against a public entity to a demurrer for failure to state a cause of action.” (*State of Cal. v. Sup. Ct.* (2004) 32 Cal. 4<sup>th</sup> 1234, 1239 1245.) Such is the case here. Plaintiff’s claim against Sunnyslope fails to state sufficient facts because it fails to allege facts showing compliance with the Government Tort Claims Act. Plaintiff can only establish that they submitted a claim to the Defendant City, but not to Sunnyslope, a separate entity. Courts bar causes of action against a public entity when the plaintiff fails to present their claim within the statutory time limit. (*Calabrese v. Cty of Monterey* (1967) 251 Cal. App. 2<sup>nd</sup> 131, 141.) Under the Tort Claims act (Gov’t Code §§900, et seq.) a claimant has six months after the date a cause of action accrues to present a claim for death, injury to person, or to personal property, or growing crops. (Gov’t Code §911.2(a).) No such claim has been made to Sunnyslope, and the statutory time limit would have been January 4, 2025, six months after the date of the alleged event on July 4, 2024. Nor can the Plaintiff show substantial compliance pursuant to Government Code section 910, while not all six elements of the code must be strictly satisfied, there needs to be substantial compliance putting the public entity on notice that the claimant is attempting to file a valid claim and litigation will follow if it is not paid or otherwise resolved. That is absent here. Plaintiff’s conclusory statement that they complied with the claims filing requirement is inadequate as they fail to allege they satisfied the terms of Government Code section 915 by delivery to the clerk, secretary or auditor of the entity, or by mailing it to the clerk, secretary, auditor, or the governing body at its principal office. Failure to comply is fatal to the claim. The court should therefore sustain the demurrer without leave to amend.

Legal Authority: As noted in the argument, demurrer serves to test , as a matter of law, whether the facts plaintiff alleges in the complaint state a cause of action under any legal theory. (*New Livable Cal. v. Ass'n of Bay Area Gov'ts* (2020) 59 Cal. App. 5<sup>th</sup> 709, 714-715.) It tests the legal sufficiency of the factual allegations, but not the truth or accuracy of the facts alleged therein. (*Genis v. Schainbaum* (2021) 66 Cal. App. 5<sup>th</sup> 1007, 1014.) The court must assume the truth of all properly pleaded factual allegations. Whether the Plaintiff will be able to prove the allegations is not relevant. (*Tindell v. Murphy* (2018) 22 Cal. App. 5<sup>th</sup> 1239, 1247.) In determining whether the complaint states sufficient facts to frame a cause of action, the court may consider all material facts pleaded in the complaint and matters of which the judge may take judicial notice, but not contentions, deductions, or conclusions of fact or law. (CCP§430.30(a), *Richtek USA, Inc. v. uPI Semiconductor Corp.* (2015) 242 Cal. App. 4<sup>th</sup> 651, 658.) In Limited Civil Matters, general but not special demurrers are allowed. (CCP§92(a), (c).) The only allowable grounds in that instance are that 1) the court has no jurisdiction over the subject of the cause of action alleged in the pleadings (CCP§430.10 (a)); or 2) the pleading does not state facts sufficient to constitute a cause of action. (CCP§430.10 (e).)

General demurrer challenges the legal sufficiency of the complaint on the grounds that it fails to state facts sufficient to constitute a cause of action. (CCP§430.10(e), *The Inland Oversight Comm. v. City of San Bernardino* (2018) 27 Cal. App. 5<sup>th</sup> 1711, 778-779.) The only issue involved in the hearing o a general demurrer is whether the complaint as it stands states a cause of action. While the plaintiff's complaint needs only meet fact pleading requirements, it must contain a statement of facts constituting the cause of action in ordinary and concise language that in alleging the ultimate facts apprises the defendant of the factual basis of the claim. (*Navarrete v. Meyer* (2015) 237 Cal. App. 4<sup>th</sup> 1276, 1284. When the cause of action is one against a governmental entity, the plaintiff must allege compliance with any applicable presuit claim filing requirement or circumstances excusing compliance, otherwise, the plaintiff's complaint is subject to a general demurrer. (*Shirk v. Vista Unified Sch. Dist.* (2007) 42 Cal. 4<sup>th</sup> 201, 209.) A demurrer is properly sustained for a plaintiff's failure to comply with the claims presentation requirements of the Government Claims Act (Gov't Code §§810, et seq.; *LeMere v. Los Angeles Unified Sch. Dist.* (2019) 35 Cal. App. 5<sup>th</sup> 237, 245-247.) A public entity's knowledge of the incident and the plaintiff's injuries does not excuse the plaintiff from complying with the claim presentation requirement. (*Lowry v. Port of San Luis Harbor Dist.* (2020) 56 Cal. App. 5<sup>th</sup> 211, 218.) Timely presentation of a claim is not merely a procedural requirement, but a condition precedent to the plaintiff's entitlement to maintain an action against a public entity. Only after the entity has acted on or is deemed to have rejected the claim is the plaintiff entitled to bring a lawsuit alleging a cause of action in tort against the entity. (56 Cal. App. 5<sup>th</sup> at 219.) Within certain exceptions (Gov't Code §905), the timely filing of a written government claim is an element that the plaintiff is required to prove in order to prevail on their cause of action.

Analysis: Here, the underlying claim is against two separate and distinct governmental entities, the City of Hollister, which has filed its answer, and Sunnyslope, which has filed the demurrer at bar. The grounds for the general demurrer is the Plaintiff's failure to state a cause of action by failing to present a timely government claim against Sunnyslope pursuant to the Government Claims Act. (Gov't Code §§810, et seq.) As noted, the timely filing of a written government claim is an *element* that the Plaintiff is required to prove in order to prevail on their cause of action. Barring certain exceptions in Government Code section 905, none of which are applicable to the case at bar, this element is foundational to the claim, and the failure to allege facts showing that a timely claim has been presented or that it was excused warrants sustaining the demurrer. Moreover, the court notes that a plaintiff is not permitted to "cure" a failure to file a presuit claim by filing a post suit claim. (*LeMere v. Los Angeles Unified Sch Dist. supra*, at 247.) Doing so would not satisfy the purposes of the Government Claims Act, which is to give the public entity the opportunity to investigate and settle the claim without the cost of litigation. Nor is a public entity's actual knowledge of the circumstances surrounding the claim a substitute for compliance with the statutory requirements. Here, the facts alleged in the Complaint are that on July 4, 2024, there was a release of water in the Plaintiff's insured's home caused, allegedly, by a broken water main, for which they allege a dangerous condition existed warranting recovery from either the City of Hollister or Sunnyslope, or both.

The complaint asserts in conclusory fashion that the Plaintiff has complied with the claims filing requirement, and that both the Defendants either rejected the claim, or failed to formally accept, reject or compromise the claim (Complaint ¶4.) However, while a claim was filed with the City of Hollister (Morris Dec, ¶4, ex A), none was filed with Sunnyslope, which is a separate governmental entity from the City of Hollister. The claim must be filed timely, which in this instance would be within six months of the accrual of the cause of action, to wit, the date of the incident allegedly causing the harm for which damages are sought in the complaint. That deadline would be January 4, 2025. That deadline has passed prior to the filing of the complaint without the filing of a claim against the separate governmental entity named as a defendant in this action: Sunnyslope County Water District. Therefore, the Plaintiff's complaint fails to state a claim against this defendant as a matter of law, warranting sustaining the demurrer. Since this defect cannot now be cured, as the deadline for filing a claim with Sunnyslope has passed, it is proper to sustain the demurrer without leave to amend.

Proposed ruling: The court sustains Sunnyslope County Water District's general demurrer to the complaint without leave to amend.

## END OF TENTATIVE RULING