

Sykora v. State Dept. of State Hospitals, 225 Cal. App. 4th 1530 (Cal. App. 2d Dist. 2014)

Mental health patient may pursue tort claims against the Department of State Hospitals despite failing to include the required filing fee because he did not receive notice of his claim deficiency.

FACTS AND PROCEDURAL POSTURE

Plaintiff, Eric Sykora, was a patient at Atascadero State Hospital from February 4 to May 4, 2011. He suffered from schizoaffective and polysubstance dependence disorders. Upon release, he claimed he had not been provided psychotropic medication or instruction on how to obtain it. On May 15, 2011, Sykora's sister reported that Sykora was confused and was hearing voices. The next day, Sykora was found unconscious, lying on his bed in a pool of his own blood. He had cut off his genitals because "the devil told him to do it."

On November 8, 2011, Sykora's attorney mailed a Government Claims Form to the California Victim Compensation and Government Claims Board (hereafter the Board). He did not include the required \$25 filing fee, pursuant to *Government Code* § 911.2(b). After receiving no response from the Board, he filed an action against the State Department of State Hospitals (hereafter the Department) for negligence and negligent infliction of emotional distress. The claim was received by the Board on November 14, 2011. On April 10, 2013 the Department filed a motion for judgment on the pleadings alleging Sykora did not file a timely and proper claim with the Board because the filing fee was not paid. In an attached declaration Eric Rivera, the Board's custodian of records, said he believed the claim was not accepted since it was not accompanied by the required filing fee. However he file-stamped the claim and assigned it a claim number. Sykora opposed the motion and claimed the Board did not give him notice that his claim was deficient. Had he been notified of his inadvertent omission of the filing fee, he would have made the payment as soon as he was advised.

The trial court granted the Department's motion and dismissed with prejudice Sykora's action. It found the Board was not required to give notice that the claim was deficient. The plaintiff appealed and the Court of Appeal reversed and remanded with directions to reinstate the complaint.

DISCUSSION

In determining whether the Board was required to give notice to the claimant that his claim was deficient, the court looked to the legislative intent behind *Government Code* § 911.2(b). The Legislature recognized that claimants make mistakes during the claims process and therefore must be given an opportunity to correct them. Along with several procedures provided to the claimant to correct such mistake, the Legislature provided the Board with the option to give written notice of the insufficiency at any time within 20 days after the claim is presented. § 911 provides that failure to give notice with respect to the defect or omission waives any defense as to the sufficiency of the claim based upon that defect or omission in the claim as presented. Since the filing fee is a requirement and is an integral part of the claim, the omission of the fee is an "omission in the claim as presented" under § 911. Therefore the Board had a duty to give notice of the claim deficiency involving the fee requirement. Furthermore despite the Board receiving the claim on November 14, 2011, the Department did not raise a claim deficiency issue until it filed its motion on April 10, 2013, much too late for corrective action. The defense as to the sufficiency of the claim was thus waived pursuant to the statute.