

Hernandez v. City of Stockton
2023 DJDAR 3723

Under the Government Claims Act, a plaintiff complies with the claim presentation requirement when the complaint alleges facts that are factually equivalent to the facts within the government claim, and failure to file a proper government claim timely is fatal to maintaining a civil action against a public entity. Cal. Gov't Code § 835.

FACTS/PROCEDURE

Plaintiff-appellant Manuel Sanchez Hernandez appealed the judgment entered after the trial court granted summary judgment in favor of the defendant City of Stockton (City), based on his failure to comply with the claims presentation requirement of the Government Claims Act. Hernandez's claim involves an action for damages arising out of an allegedly defective public sidewalk. He filed a government claim with the City, alleging that it negligently maintained public property by failing to correct a dangerous condition along a sidewalk. Hernandez claims that he sustained severe injuries when he tripped and fell due to a "dangerous condition" on the City-owned sidewalk surface that he identified only as an "uplifted sidewalk." However, his government claim was rejected, and Hernandez filed a personal injury action. In that pleading, he complained broadly that the sidewalk surface harbored a dangerous condition that created an unspecified hazard. During his deposition, it was disclosed that he tripped and fell when he stepped into a hole, specifically a tree well with no tree in it. When specifically asked whether it was "fair to say that an uplifted sidewalk did not cause his fall," he responded: "Correct." Hernandez argued that summary judgment was not warranted because both his government claim and the complaint asserted the factual equivalent that he tripped and fell due to an uneven sidewalk surface.

HOLDING/DISCUSSION

Holding: affirmed.

The Court of Appeal affirmed and concurred with the trial that this action was barred because the factual basis for recovery is not "fairly reflected" in the plaintiff's government claim.

The court began its analysis with the Government Claims Act, which provides public entity liability for injuries caused by a dangerous condition of public property. Under the Government Claims Act, a claim alleging a dangerous condition may not rely on generalized allegations but must specify in what manner the condition constituted a dangerous condition. A plaintiff's allegations, and ultimately the evidence, must establish a physical deficiency in the property itself.¹

Generally, a suit for money or damages may be brought against a public entity once a written claim, known as a government claim, is presented to and rejected by that entity. When a civil action is filed after a governmental entity rejects the claim, it is acceptable for the complaint

¹ A dangerous condition exists when the public property is physically damaged, deteriorated, or defective in such a way as to foreseeably endanger those using the property itself, or possess physical characteristics in its design, location, features, or relationship to its surroundings that endanger users.

to elaborate or add further details to a government claim. To comply with the claim presentation requirement, the facts alleged in a complaint must include the factual equivalent contained within the government claim. Additionally, the failure to timely file a proper government claim is fatal to maintaining a civil action against a public entity, which is six months from the date of the incident.

Court distinguishes *Blair v. Superior Court (1990)*² from the present case because, in *Blair*, the allegations of the government claim were broad enough to encompass the allegations in the complaint, which elaborated upon and added further detail to the allegations of the government claim. Unlike *Blair*, this case involves a fatal variance due to a complete shift in allegations regarding the dangerous condition that allegedly caused the plaintiff's injuries. Therefore, the plaintiff's complaint does not merely elaborate upon or provide further detail to a government claim based on the same fundamental facts but instead bases its liability premised on an entirely different factual basis than that stated in the government claim. An uplifted sidewalk is not the factual equivalent of a hole created by an empty tree well that is clearly in an area intended for a tree rather than presented as part of the sidewalk surface and does not remotely resemble what a reasonable person might consider constituting an "uplifted sidewalk."

The plaintiff's claim against the city was barred because he did not adequately comply with the Government Claims statute. He filed a timely government claim, but it asserted that the plaintiff was injured due to tripping on an uplifted surface of pavement on a public sidewalk. But in his deposition, the plaintiff said he fell into a hole—a tree well without a tree in it—not any uplifted pavement. So, the plaintiff's government claim was predicated on a dangerous condition created by an "uplifted sidewalk." In contrast, the factual basis for recovery asserted in this action is a dangerous condition along the sidewalk created by a "tree well hole," thereby, the factual basis on which the plaintiff sued was not fairly reflected in his government claim. So, his suit was barred.

Therefore, the court of appeals affirmed summary judgment in favor of the City.

² Court reasoned that a charge of negligent construction may reasonably be read to encompass defects in the placement of highway guard rails, slope of the road, presence of hazards adjacent to the roadway or inadequate warning signs.