

MICHELLE HARLAND v. CITY OF WEST HOLLYWOOD

(2026) No. B343375

Court of Appeal, Second District, California

Filing suit before satisfying the Government Claims Act's claim-presentation requirements is considered a fatal defect, **BARS RECOVERY COMPLETELY**.

FACTS/PROCEDURE

On October 8th, 2022, Plaintiff slipped and fell while traversing the streets of Hollywood. In compliance with the 6-month deadline, Plaintiff then mailed a claim for damages to the City of West Hollywood (hereinafter "City") on April 5th, 2023, just two days before the deadline. The claim stated that Plaintiff suffered physical and emotional injuries because of the City's failure to maintain the sidewalk in a safe condition. Two days later, on April 7th, 2023, Plaintiff filed suit in the Los Angeles Superior Court against the City. Plaintiff alleged in her complaint that she presented a claim to the City, and believes in good faith that these claims are either denied, not acted upon, or will be denied in the future.

Turns out, the City did not receive Plaintiff's mailed claim until April 10th, 2023. The City also did not receive Plaintiff's complaint until April 25th, 2023. After receiving the complaint, the City demurred for failure to state a claim, citing Plaintiff's failure to comply with the Government Claims Act. Plaintiff also amended her complaint on May 22nd, 2023, stating that she submitted her claim to the city for damages on April 5th, and that over 45 days have passed without a response from the City.

The City once again demurred to the amended complaint for Plaintiff's noncompliance. Trial court overruled the demurrer. However, at the demurrer hearing, trial court stated that it is inclined to grant summary judgment to the City because Plaintiff's service of summons and complaint "before the City had a chance to respond... defeats the whole purpose of the 45-day requirement."

A month after the demurrer hearing, Plaintiff voluntarily requested dismissal of her amended complaint without prejudice. However, on February 26th, 2024, Plaintiff filed a second suit that was virtually identical to the first dismissed suit, with the only exception being a new allegation that the City had rejected her claim in September 2023. The second suit made no mention of the first suit.

The City demurred to the second complaint, arguing that the second suit was merely an effort to "circumvent the deficiencies" of her first lawsuit, but the violation of the Act is still present. Trial court agreed, stating that Plaintiff's initial failure to comply is a complete bar to the action, and voluntarily dismissing the claim only to replace it with an identical claim did not cure the failure to comply. Trial court granted the demurrer and dismissed the case with prejudice. Plaintiff appealed.

HOLDING/DISCUSSION

The Second District Court of Appeal first emphasized the policy goal of the Government Claims Act, which is to give public entities enough information and opportunities to investigate a claim, possibly resolving the claim without the expense of litigation. Additionally, the Act sets out two claim presentation

requirements: 1) personal injury claims must be presented to the public entity within 6 months, and 2) the claimant cannot sue the public entity until the first requirement is met, and the public entity either denies the claim, or fails to act upon the claim within 45 days.

On appeal, Plaintiff made two arguments: 1) she *did* comply with the claim presentation requirements in the second action, which supersedes the earlier complaint, and 2) failure by the City to engage in reasonable meet and confer before filing the first demurrer means that the City waived its right to argue that Plaintiff's premature filing prejudiced its ability to investigate her claim. The Court of Appeal denied both arguments.

For the first argument, the Court categorized the claim presentation requirements as a condition precedent to a public entity tort action. Thus, failure to comply with the requirements would subject the complaint to a general demurrer for failure to state a claim. The Court reiterated the policy goal, which is ensuring that public entities get sufficient information to investigate claims without the expense of litigation. Suing a public entity before presenting it with a claim defeats this function. Since Plaintiff did not wait until after the 45-day decision period to file her complaint, she deprived the City of its opportunity to investigate, thus frustrating the policy purpose completely. The City's later denial of Plaintiff's claim is also immaterial since her premature suit contravened the Act.

In support of her second complaint, Plaintiff cited *Malear v. State of California* (2023) 89 Cal.App.5th 213. In *Malear*, the court found substantial compliance with the claim presentation requirements through serving the defendants with an amended complaint after rejection of the claim. *Ibid*. However, the Court distinguished the present case, since *Malear* is a narrow holding that involved an unserved original complaint and a subsequent amended complaint. Since Plaintiff in this case served the original complaint, the lawsuit was thus already in full swing. No unserved original complaint, no substantial compliance.

The Court rejected the second claim because Plaintiff failed to raise the argument in the trial court. (See *Quiles v. Parent* (2018) 28 Cal.App.5th 1000, 1013 ["Failure to raise specific challenges in the trial court forfeits the claim on appeal"].)

The Court affirmed the trial court's judgment and awarded costs to the City.