



December 2024
Special Safety Bulletin

Registry of Public Agencies Reminder

Public agencies who are served with a lawsuit can lose the opportunity to defeat the lawsuit in the pleadings stage because of a clerical oversight. In each instance ICRMA members may have experienced, no government tort claim was presented to the public agency.

The lawsuit would have been time barred for the failure to present a government tort claim to the public agency, except that the public agency had not filed the [Registry of Public Agencies Filing Form SF-405 \(“Statement”\)](#) in so many years that it was arguably no longer in substantial compliance.

As a result, each public agency was faced with defending itself against a lawsuit that would otherwise have been put to rest, via a demurrer.

All public agencies are required by [Government Code section 53051](#) to file the [Statement \(Form SF-405\)](#) with the Secretary of State, and the County Clerk of each county in which the public agency maintains an office, upon formation and within 10 days after any change in the facts included on the form. To be in compliance, the Statement on file must include:

- the full and legal name of the public agency;
- the official mailing address of the governing body of the public agency;
- the name and residence or business address of each member of the governing body of the public agency; and
- the name, title, and residence or business address of the chairperson, president, or other presiding officer, and clerk or secretary of the governing body of such public agency.

[Government Code Section 946.4\(a\)](#) states:

“... the failure to present a claim does not constitute a bar or defense to the maintenance of a suit against such public agency if, during the 70 days immediately following the accrual of the cause of action:

(1) No statement pertaining to the public agency is on file, or is placed on file, in the Roster of Public Agencies in the office of the Secretary of State and of the county clerk of each county in which the public agency then maintains an office, as required by Section 53051; or

(2) A statement or amended statement pertaining to the public agency is on file, or is placed on file, in the Roster of Public Agencies in the office of the Secretary of State and of the county clerk of each county in which the public agency then maintains an office, but the information contained therein is so inaccurate or incomplete that it does not substantially conform to the requirements of Section 53051.

On any question of fact arising within the scope of paragraphs (1) and (2) of subdivision (a), the burden of proof is upon the public agency.



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In *Wilson v. San Francisco Redevelopment Agency* (1977) 19 Cal.3d 555, the California Supreme Court ruled that the RDA's failure to comply with Government Code Section 53051 (the filing did not include the RDA's correct address) precluded the RDA from asserting the plaintiff's failure to present a timely claim as a complete defense. The court was clear that unless an entity files a Statement that substantially conforms with the reporting requirements, a plaintiff is not required to present a government claim as a prerequisite to a lawsuit.

As organizations downsize and lose personnel with institutional knowledge, it is easy to overlook this requirement. However, this can be a painful, and costly, experience when the failure to comply with Government Code Section 53051 prevents a public agency from defeating a lawsuit in the pleadings stage, at minimal cost.

Please confirm your public agency has filed the requisite Statement with the State and County in which you are located. If your public agency has not filed the requisite Statement, please do so without further delay. This requirement also extends to any other public agency, successor agency, JPA, special district, etc., your agency has created or is part of.

Given the importance of this requirement, ICRMA recommends each agency create an annual reminder which coincides with public officials taking office for your agency to ensure your agency is in compliance with the 10-day notice requirement after any change in the facts.