

## LATE CLAIMS OVERVIEW

1. A **LATE CLAIM** is a basic claim filed with the entity six (6) months after the date of loss or notice of loss by the claimant or their representative.
2. A Late Claim should not be rejected since that rejection will result in a waiver of the defense of the statute of limitations as well as any other defenses available to the entity. A Late Claim notice should be handled as explained below.
3. California Government Code requires that the entity grant or deny an Application for Leave to Present a Late Claim within forty-five (45) days after the Application is presented to the entity. If no action is taken by the entity on the Application within 45 days of date of service of the Late Claim, the claim is presumed to be denied as a matter of law (§911.6) and the entity should return the claim without taking action.
4. Written notice must be sent to the claimant or their representative that the claim was not filed timely and that it is being returned without further action. Use the **LATE CLAIM NOTICE OF RETURN, WITHOUT ACTION** form.
5. **FAILURE TO SEND THE NOTICE WILL CONSTITUTE A WAIVER OF THE DEFENSE OF THE STATUTE OF LIMITATIONS.**
6. If after receiving the **LATE CLAIM NOTICE OF RETURN WITHOUT ACTION** form and the claimant still desires to pursue the claim, the claimant or their representative must file an **APPLICATION FOR LEAVE TO PRESENT A LATE CLAIM** (basically a letter) with the entity.

## LATE CLAIM NOTICE OF RETURN, WITHOUT ACTION

NAME OF ENTITY:
DATE:
TO:
<p>The claim you presented to the _____ (INSERT TITLE OF GOVERNING BODY OR OFFICER) ON _____ (INDICATE DATE) is being returned because it was not presented within six months after the event or occurrence as required by law.</p> <p>See Sections 901 and 911.2 of the Government Code. Because the claim was not presented within the time allowed by law, no action was taken on the claim.</p> <p>Your only recourse at this time is to apply without delay to _____ (NAME OF PUBLIC ENTITY) for leave to present a late claim. See Sections 911.4 to 912.2, inclusive, and Section 946.6 of the Government Code.</p> <p>Under some circumstances, leave to present a late claim will be granted. See Section 911.6 of the Government Code.</p> <p>You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.</p>
NAME:
SIGNATURE:
<b>PROOF OF SERVICE</b>
<p>On _____ (DATE), I served the within on the claimant a <b>NOTICE OF RETURN, WITHOUT ACTION, A LATE CLAIM</b> by placing a true copy thereof enclosed in a sealed envelope in the outgoing mail addressed as requested by the claimant.</p> <p>I declare under penalty of perjury that the foregoing is true and correct. Executed at _____ _____ (LOCATION), California, on _____ (DATE).</p>
NAME:
SIGNATURE:

## APPLICATION FOR LEAVE TO PRESENT LATE CLAIM OVERVIEW

1. A claim filed after the applicable statute date must be accompanied by an **APPLICATION FOR LEAVE TO PRESENT LATE CLAIM** (a letter from the claimant). Otherwise, it must be handled as specified in the **LATE CLAIM** section of this Manual.
2. Call SDRMA claims department at 800.537.7790 to discuss handling **APPLICATION FOR LEAVE TO PRESENT LATE CLAIM**.
3. The application must be filed within one (1) year after the accrual (reasonable knowledge) of the cause of action for injury to person or damage to real or personal property.
4. The application shall state the reason for the delay in presenting the claim.
5. The Governing Body shall grant or deny the Application within forty-five (45) days after it is presented to the them. The Application should be rejected if the Governing Body disputes the allegations contained in the claim or the amount of damages claimed.
6. It is important that the rejection letter specify that the rejection is of the **APPLICATION** and not the **CLAIM**. Failure to so specify can result in a loss of an available Statute of Limitations defense. Use the **NOTICE OF RETURN, WITHOUT ACTION, APPLICATION FOR LEAVE TO PRESENT A LATE CLAIM** form.
7. Complete the Proof of Service section when mailing a **NOTICE OF RETURN, WITHOUT ACTION, APPLICATION FOR LEAVE TO PRESENT A LATE CLAIM** form.

**NOTICE OF RETURN, WITHOUT ACTION, APPLICATION FOR LEAVE TO PRESENT A LATE CLAIM**

NAME OF ENTITY:
DATE:
TO:
The Application for Leave to Present a Late Claim you presented to _____ _____ (NAME OF ENTITY) on _____ (DATE) is being returned to you without action because it was not presented within one (1) year of the incident/accident that is the subject of the Claim as is required by law. (See Sections 901, 911.2 and 911.4 of the Government Code.)
NAME:
SIGNATURE:
<b>PROOF OF SERVICE</b>
On _____ (DATE), I served the within on the claimant a <b>PROOF OF SERVICE.</b>
On _____ (DATE), I served the within on the claimant a <b>NOTICE OF RETURN, WITHOUT ACTION, OF          AN APPLICATION FOR LEAVE TO PRESENT A LATE CLAIM</b> , by placing a true copy thereof enclosed in a sealed envelope in the outgoing mail addressed as requested by the claimant.
I declare under penalty of perjury that the foregoing is true and correct. Executed at _____ _____ (LOCATION), California, on _____ (DATE).
NAME:
SIGNATURE: