

## Claim Filing Amendment

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As most of you know, before you file a lawsuit against a government entity, there is a claim filing prerequisite. The statutes for this are set forth at RCW 4.92.100, 4.92.110, 4.96.010 and 4.96.020. What you may not know however, is that on June 6, 2006, these statutes were amended to require someone who is suing an individual officer, employee or agent of a governmental entity for conduct that is actionable, to specify the individual or individuals in the claim. These statutes became effective on June 7, 2006, and for all cases filed after that date the specific parties must be named in the Notice of Claim **and served** or they will likely be dismissed from any lawsuit.

Theoretically, the purpose of the claims statute is to give the government entity advance notice of a potential case so that it might be resolved short of a lawsuit. However, as most of us know, aside from perhaps receiving an acknowledgment that the claim has been received, rarely is a case resolved at this stage. As such, before any meaningful discussion is held, a lawsuit must be filed.

The danger with the claim filing requirement is that the appellate courts, when reviewing whether the claim is proper, have been very particular to make certain that the claim's requirements are met. See Medina v. Public Utility Dist. No. 307, 147 Wn.2d 303, 53 P.3d 993 (2002); Troxell v. Rainier Public School Dist. No. 307, 154 Wn.2d 345, 111 P.3d 1173 (2005); Bosteder v. City of Renton, 155 Wash.2d 18, 117 P.3d 316 (2005). Substantial compliance is not enough and dismissals have been upheld on appeal when the claim has not been completed properly. Id.

Now that the amendment applies, if you are seeking to hold a particular person responsible, that person must be named in the claim and served in order to satisfy the claim filing prerequisite.

Upon reviewing the legislative history to SHB 2130, which addresses the claim notice requirements, the amendments specifically apply to "claims against officers, employees or volunteers of the state or local government when acting in that capacity." Although no reported cases have been decided interpreting the new statutes, precedent suggests that unless you follow the statute precisely, you risk having your case dismissed because of this procedural issue. As such, when preparing your claim against a government entity, be diligent that all claim filing requirements are satisfied.