
GOVERNMENT CLAIMS ACT - CALIFORNIA

J.J. v. County of San Diego

Court of Appeal, Fourth District, Division 1, California - February 14, 2014 - Cal.Rptr.3d - 14 Cal. Daily Op. Serv. 1575

Former foster child, appearing through her guardian ad litem, petitioned for relief from the requirement that she timely file a written claim against county before she could maintain a personal injury action against county for money or damages based on molestation by foster father. The Superior Court denied petition. Child appealed.

The Court of Appeal held that:

- Child's claim against county accrued, at the latest, when her parents spoke at foster father's sentencing;
- Delay in child's receipt of reports did not equitably estop county from relying on Government Claims Act claim presentation time limits; and
- Government Claims Act claim presentation time limits were not tolled while child was a minor.

Government Claims Act section allowing application for leave to file late claim against public entity is remedial statute intended to provide relief from technical rules which otherwise provide trap for unwary. Remedial policy underlying statute is that wherever possible cases should be heard on their merits, and thus, denial of such relief by trial court is examined more rigorously than where relief is granted and any doubts which may exist should be resolved in favor of application.

Former foster child's personal injury claim against county for money or damages based on her molestation by foster father accrued, at the latest, when her parents both appeared and spoke at foster father's sentencing for committing a lewd and lascivious act on child, thus triggering the one-year time limit for child to petition for relief from the requirement that she timely file a written claim under the Government Claims Act, since child's parents clearly were aware of the generic elements of wrongdoing, causation, and harm.

For the purpose of computing the time limits prescribed by the Government Claims Act, a civil cause of action for child molestation generally accrues at the time of the molestation, but that date may be postponed under the delayed discovery doctrine, which provides that a cause of action does not accrue until the plaintiff discovers, or has reason to discover, the cause of action.

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