



Not on the Roster

Traps for the unwary in government-claim land and the Roster of Public Agencies



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The incident happened on county fairgrounds. The client was referred long after the government claim and late claim application windows had closed. But the fairground entity was odd. It called itself a county fair, yet had a .com address. It had a CEO, not a director. It was not listed on the Secretary of State's mysterious Roster of Public Agencies, where public agencies are supposed to file. A layperson – or even a skilled lawyer – would be hard-pressed to figure out who ran the fair. But after the complaint was filed and served, the lawyer received a demurrer. An entity called an agricultural association stated *it* operated the fair. What's more, the agricultural association stated it was a governmental entity. It asserted that the lawyer's client's failure to file a government claim was terminal.

What's the Roster of Public Agencies?

A public agency must file with the California Secretary of State's Special Filings department's Roster of Public Agencies, as well as the county clerk where the public agency does business. Govt. Code § 5305. If the public agency does not, it does not get to take advantage of government claim requirement defenses. Govt. Code § 946.4.

But wait, do all governmental entities need to file? No. The state, counties, and cities are not "public agencies" for these purposes. They do not need to file with the Roster. Govt. Code § 53050.

The Roster of Public Agencies is as accessible as a thermal exhaust port (yes, yet another Star Wars reference.) If you know exactly what you are looking for, know where it is, and use the Force, you just might hit the two-meter wide target on something the size of a small moon. Juxtapose against the Roster of Public Officials, kept by the same fine Secretary of State. The public officials roster is updated annually and lists hundreds of officials' current contact information – including email addresses and websites. It has been online since 2005. But for some unknown (ahem – trap for the unwary) reason, the public agencies roster cannot seem to find its way onto the interwebs.

Currently, the only way to check on an entity is to call the Secretary of State's Special Filings department at (916) 653-3984. Yes, you have to speak to a human. Not only that, you must use the precise entity name. For example, if you ask if Redondo High School District (instead of Redondo Union High School District) is on the list, you'd be told there is no such entity listed. Now, if you are a proud RUHS Seahawk, you may know the name is Redondo Union. If not, doom on you. If you're feeling a little heat about how the Roster is run, that's intended. We the

people are entitled to more transparency and accessibility (fade in patriotic Sousa march here.)

L'état, c'est moi

The state, including its agencies, is not required to register. Some state agencies are straightforward. Caltrans. The DMV. But what about county fairs? Well, under Food and Agric. § 3951, a district agricultural association can be formed to hold fairs and exhibitions. Many (but not all) county fairs are operated by these odd platypus-like entities. And district agricultural associations consider themselves to be state institutions. Food and Agric. § 3953. Thus, if one checks the Roster of Public Agencies for a county fair, or even a district agricultural association (if the county fair bothers to list who runs it), one will be told it is not on the roster: A false negative when attempting to ascertain governmental status.

A district agricultural association is one of many areas to tread with caution. Hospitals are another. Some are run by hospital districts, which can be governmental entities. And determining property ownership in interstitial urban spaces can require a surveyor and deep dive research to parse the ownership of a particular patch of land.

No doubt

If there's any doubt, submit a government claim to the questionable entity *and* to the state. Describe everything you did to determine its status. State that you asked if the entity has its own claim form. Then submit the claim early – 45 days at least. If the entity has its own special form that it made difficult to find (another item frequently not available online), the entity can (and will) reject the claim without the form. Govt. Code § 910.4. If the claim is submitted on the last day before the six-month window runs and is then kicked back because it is not on the right form, well, the next stop is a late claim application, then a petition relieving claimant from government claim requirements – the governmental claim Hail Mary.

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Back to our example. The demurrer ruling? Not available at press time. The bigger lesson: do everything you can to avoid intricate pleading battles, knowing that in some situations (late-arriving clients) they may be inevitable.

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