

Memorandum 68-11

Subject: Study 52 - Sovereign Immunity

At the last meeting, the Commission discussed the claims procedure that applies to claims against public entities. Assemblyman Bear suggested that the claims procedure still contains traps for the unwary. The Executive Secretary reported that, in his opinion, one significant trap is contained in the claims procedure: When a claim is denied or deemed to be denied, the action must be commenced within six months from the time the claim is denied or deemed to be denied. The Executive Secretary stated that this short statute of limitations may operate as a trap for the unwary. Some plaintiffs undoubtedly were trapped by the short statute of limitations when it first went into effect. However, it is probable that lawyers are now generally aware of the six-month statute of limitations.

At the last meeting, the Commission determined that the problem did not merit further consideration at this time. Nevertheless, we bring to your attention the case of Tubbs v. Southern Cal. Rapid Transit Dist., 67 A.C. 683 (November 14, 1967). The text of the Supreme Court's opinion is attached as Exhibit I (pink). This case is a good illustration of the trap that the Executive Secretary called to your attention at the last meeting.

If the Commission desires to eliminate this trap, the six-month limitation could be increased to one year or the limitation period could be six months from the denial of the claim or one year from the accrual of the cause of action, whichever is the later time.

Respectfully submitted,

John H. DeMouilly
Executive Secretary