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CERTIFIED FOR PUBLICATION
IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SEVEN

COURTNEY KNAPP, a Minor, etc., et al.,

Plaintiffs and Appellants,

v.

PALISADES CHARTER HIGH SCHOOL
et al.,

Defendants and Respondents.

B185996

(Los Angeles County
Super. Ct. No. SC081985)

APPEAL from a grant of summary judgment of the Superior Court of Los Angeles County, Joe W. Hilberman, Judge. Affirmed.

Edwin Carney for Plaintiff and Appellant.

Soltman, Levitt & Flaherty, John S. Levitt and Philip J. Bonoli for Defendants and Respondents.

A visiting student appeals the trial court’s grant of summary judgment in favor of a charter high school, its teacher and the school district on the ground that she failed to comply with and was not excused from meeting the claim presentation requirements of the Government Claims Act (Gov. Code,¹ § 900 et seq.)² The student’s contentions are twofold: 1) she substantially complied with the Government Claims Act; and 2) she was excused from filing the claim, because the charter high school failed to file identifying information for listing on the Roster of Public Agencies pursuant to section 53051. Finding no triable issue of material fact, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

I. FACTS

The following facts are undisputed. Plaintiff and appellant Courtney Knapp lives with her parents in Pacific Palisades. Defendant and respondent Palisades Charter High School (PCHS), a California corporation³ whose charter was granted by defendant and respondent Los Angeles Unified School District (LAUSD), is the public high school that serves the area. In February 2004, then 13-year-old Knapp was in the eighth grade at

¹ All further statutory references are to the Government Code unless otherwise indicated.

² The Government Claims Act is also known as the Torts Claim Act. “[T]he label Tort Claims Act is a misnomer, at least with respect to the claims presentation statutes. Part 3 of division 3.6, section 900 et seq., is more accurately described as a government claims act.” (*Baines Pickwick Ltd. v. City of Los Angeles* (1999) 72 Cal.App.4th 298, 304.)

³ In the record, the declaration of Jack Sutton, PCHS Executive Director, set forth that “PCHS was incorporated in the State of California on February 4, 2004” and was a “separate legal entity” from LAUSD, but provided no information on the type of corporation formed. No articles of incorporation or bylaws were included in the record on appeal. When questioned by this court during oral argument, defendants’ counsel was unable to identify the type of corporation formed by PCHS.

Calvary Christian School (Calvary), a private school. Knapp's parents planned to send her to PCHS for high school upon graduation from Calvary.

On February 6, 2004, PCHS sponsored a "Shadow Day," which provided prospective students the opportunity to attend two classes with a PCHS student. Knapp shadowed PCHS student Kaylie McAllister, her friend and neighbor. They attended an advanced placement European history class taught by defendant and respondent Ronald Cummings, who allegedly made and/or allowed other students to make sexual statements or innuendos toward Knapp.

Specifically, upon learning that Knapp attended Calvary, Cumming made the sign of the cross and said, "May God bless you." He then asked Knapp to make his tea. During class, Cumming allegedly slapped, hugged and kissed two male students. In the middle of his lecture, Cummings brought up the topic of Janet Jackson exposing her breast on the 2004 Super Bowl half-time show, whereupon a student commented that Knapp probably did not know the meaning of the word "boob." A student was surprised to learn that Knapp was in the eighth grade, exclaiming that she was "huge." The remark drew laughter from the class in light of the Janet Jackson discussion. When the embarrassed student explained that he meant Knapp was tall, Cummings looked at Knapp's breasts and commented that she had a "nice pair of knockers." Later, the word "boob" was again injected into the class discussion. Another student remarked, "Maybe we should show the 8th grader what they look like." For the rest of the class period, Cummings interspersed his lecture with profanity and discussed the "shuttlecock" loom, which he called the "cock."

The experience in Cummings's class made Knapp feel embarrassed, humiliated, exposed, and afraid that Cummings and his students would single her out again for sexual banter. Fearful of running into Cummings again and of being teased by students from the class, she stopped attending athletic events to support her friends at PCHS. Knapp ultimately decided against going to PCHS for high school. Instead, she elected to enroll at the private Oaks Christian High School in Westlake Village, a 50-minute one-way bus ride from Pacific Palisades.

II. *PROCEDURE*

A. *The Demand*

On the night of Shadow Day, Knapp's father, Thomas Knapp, M.D., directed an e-mail to PCHS's then Principal and Executive Director Linda Hosford about Cummings's conduct with his daughter, and demanded a call within one business day and a meeting within two business days. However, the e-mail he sent to Hosford was apparently directed to the wrong address. Knapp then forwarded Hosford a written account of the events. McAllister and her mother also complained orally and in writing to Hosford and the PCHS Board of Directors about Cummings. Hosford declined to meet with the Knapps until she completed an investigation of the incident. Hosford enlisted the help of Assistant Principal Ann Davenport with the investigation,⁴ and advised her that the school was "being sued."

On February 9, 2004, Knapp retained counsel and demanded that PCHS either terminate Cummings or pay for four years of Knapp's private education. In a letter dated February 17 by its counsel, PCHS declined to negotiate with Knapp on her demands and gave the following notice: "Should you wish to file a claim for such alleged damages with the School, you will need to first file a claim which meets the requirements of the Government Tort Claims Act under California law."

B. *The Claim for Damages*

On March 3, 2004, Knapp filed a claim for damages with the County of Los Angeles. The claim demanded that LAUSD pay \$125,000 for four years of private high school education for her. The enumerated claims included: violation of the Unruh Civil

⁴ On May 5, 2004, Hosford completed her investigation and placed a written warning/reprimand in Cummings's personnel file. The next day, Hosford informed the Knapps in writing that PCHS had completed its investigation, that while any personnel action taken was confidential, the school policy prohibited inappropriate conduct by employees and retaliation against whistle blowers. On January 28, 2005, the California Commission on Teacher Credentialing informed the Knapps that it had reviewed their affidavit and had recommended a public reproof of Cummings.

Rights Act (Civ. Code, §§ 51, 51.5 and 52, subd. (a)); violation of Title IX of the 1972 Education Amendments (20 U.S.C. § 1681) (Title IX); violation of 42 U.S.C. § 1983; emotional distress; and negligent failure to train, supervise and discipline Cummings.

On March 12, the County of Los Angeles rejected Knapp's claim on the ground that it did not involve the County, its officers, agents or employees. The letter additionally stated: "STATE LAW REQUIRES THAT YOU BE GIVEN THE FOLLOWING 'WARNING': [¶] Subject to certain exceptions, you have only [six] (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code section 945.6. [¶] This time limitation applies only to causes of action for which Government Code Sections 900-915.4 required you to present a claim. Other causes of action, including those arising under federal law, may have different time limitations. [¶] 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."

Knapp never filed a claim for damages with PCHS or LAUSD. On January 11, 2005, the Los Angeles County Registrar-Recorder/County Clerk issued a Certificate of Fact of Non-Filing, which verified that the Public Agency Roster had no record of a filing by PCHS during the relevant period.

C. The Lawsuit and Summary Judgment

On June 11, 2004, Knapp, by and through her father as guardian ad litem, sued PCHS, LAUSD and Cummings (collectively defendants) for sexual harassment under the Unruh Civil Rights Act (Civ. Code, § 51.9), intentional and negligent infliction of emotional distress.

The defendants moved for summary judgment or, in the alternative, summary adjudication on the grounds that Knapp failed to properly present claims under the Government Claims Act and sustained no damages. Following argument, the court granted the motion on the ground that Knapp failed to raise a triable issue of material fact as to whether she properly filed a claim in accordance with section 945.4. The court explained that "[n]o claim was ever filed with the LAUSD, but rather with the County of

Los Angeles, the wrong entity.” It held that Knapp’s correspondence with Hosford did not substantially fulfill the requirements of the Government Claims Act, because Knapp “never clearly indicated that legal action was a certainty.” Further, because “PCHS is not a school district for purposes of the Government Claims [Act],” it was “not required to register its information on the Roster of Public Agencies,” and Knapp “was not excused in serving the proper public entity.”

Knapp timely appealed from the summary judgment.

DISCUSSION

Knapp’s several contentions⁵ can be reduced to two threshold questions: 1) whether she complied or substantially complied with the Government Claims Act; and 2)

⁵ In her Appellant’s Opening Brief, Knapp set forth five arguments and seven sub-arguments that: I. The trial court violated Knapp’s due process rights when it concluded that LAUSD, not PCHS, was the proper entity to serve with notice of a claim against PCHS; II. PCHS was the proper entity to serve with notice of a claim, and the trial court’s conclusion that LAUSD was the proper entity was wrong as a matter of law; III. Knapp was excused from the claim-filing requirement, and the trial court erred as a matter of law in concluding she was not; A. The governing body of a public agency is required to file identifying information with the county clerk to be indexed in the “Roster of Public Agencies;” B. The requirement that a public agency file its identifying information is a prerequisite to it receiving a notice of a claim—its failure to file unconditionally excuses a claimant from filing a claim; C. It was undisputed PCHS failed to comply with the requirement to file its identifying information with the County Clerk; D. The requirement to file identifying information applies to PCHS because it is a “public agency” with its own “governing body”—not a subdivision of LAUSD; E. Reliance by Knapp on PCHS’s failure to file its identifying information with the county clerk is not required; IV. Knapp’s communications constituted substantial compliance or, alternatively, PCHS waived any defect, and the trial court erred in finding otherwise; A. Knapp substantially complied with the claim-filing requirement; B. Alternatively, Knapp’s communications with PCHS were readily identifiable as a claim, and PCHS waived any defect; and V. Knapp presented undisputed evidence of damages confirming the existence of triable issues of material fact.

if not, whether she was excused from filing the claim, because PCHS had not filed identifying information for listing on the Roster of Public Agencies.

I. STANDARD OF REVIEW

The Supreme Court established the standard of review for an order granting summary judgment. “A trial court properly grants summary judgment where no triable issue of material fact exists and the moving party is entitled to judgment as a matter of law. [Citation.] We review the trial court’s decision de novo, considering all of the evidence the parties offered in connection with the motion (except that which the court properly excluded) and the uncontradicted inferences the evidence reasonably supports. [Citation.] In the trial court, once a moving defendant has ‘shown that one or more elements of the cause of action, even if not separately pleaded, cannot be established,’ the burden shifts to the plaintiff to show the existence of a triable issue; to meet that burden, the plaintiff ‘may not rely upon the mere allegations or denials of its pleadings . . . but, instead, shall set forth the specific facts showing that a triable issue of material fact exists as to that cause of action’ [Citations.]” (*Merrill v. Navegar, Inc.* (2001) 26 Cal.4th 465, 476-477; see also *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 854-855; *Katz v. Chevron Corp.* (1994) 22 Cal.App.4th 1352, 1363-1364.)

II. THE COURT PROPERLY FOUND THAT PLAINTIFF FAILED TO COMPLY WITH THE GOVERNMENT CLAIMS ACT

Subject to certain exceptions not implicated here, the Government Claims Act provides that “no suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented . . . until a written claim therefore has been presented to the public entity and has been acted upon by the board, or has been deemed to have been rejected by the board. . . .” (§ 945.4.) “Submission of a claim to a public entity pursuant to [the Act] is a condition precedent to a [civil] action and the failure to present the claim bars the action. [Citation.]” (*Paramount Unified School Dist. v. Teachers Assn. of Paramount* (1994) 26 Cal.App.4th 1371, 1387.)

“A claim shall be presented by the claimant or by a person acting on his or her behalf and shall show all of the following: [¶] (a) The name and post office address of

the claimant. [¶] (b) The post office address to which the person presenting the claim desires notices to be sent. [¶] (c) The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted. [¶] (d) A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim. [¶] (e) The name or names of the public employee or employees causing the injury, damage, or loss, if known. [¶] (f) The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case.” (§ 910.)

Section 915 sets forth the procedures for presenting a claim: “(a) A claim . . . shall be presented to a local public entity by either of the following means: [¶] (1) Delivering it to the clerk, secretary or auditor thereof. [¶] (2) Mailing it to the clerk, secretary, auditor, or to the governing body at its principal office. [¶] . . . [¶] (d) A claim . . . shall be deemed to have been presented in compliance with this section even though it is not delivered or mailed as provided in this section if it is actually received by the clerk, secretary, auditor or board of the local public entity . . . within the time prescribed for presentation thereof.” “[T]he purpose of the claims statutes ‘is to provide the public entity sufficient information to enable it to adequately investigate claims and to settle them, if appropriate, without the expense of litigation. [Citations].’ [Citations.]” (*Phillips v. Desert Hospital Dist.* (1989) 49 Cal.3d 699, 705.)

“[I]f the injured party fails to file a timely claim, a written application may be made to the public entity for leave to present such claim. (Gov. Code, § 911.4, subd. (a).) If the public entity denies the application, Government Code section 946.6 authorizes the injured party to petition the court for relief from the claim requirements.’ [Citation.]” (*Spencer v. Merced County Office of Education* (1997) 59 Cal.App.4th 1429, 1435.)

A. *No Actual Compliance*

It is undisputed that Knapp filed her government claim with the wrong public entity, the County of Los Angeles. When it rejected her claim on March 12, 2004, Knapp had actual notice that the County was not the appropriate entity.

Having been placed on notice by both the County and PCHS that the filing with the County was inadequate, Knapp failed to file a claim with either PCHS or LAUSD. In the record, PCHS Executive Director Jack Sutton, the authorized agent for service of process and receipt of all section 914 claims, declared that Knapp never filed a claim with PCHS prior to filing her June 11, 2004 lawsuit against the charter school. Similarly, Jefferson Crain, Executive Officer of the Board of Education for the LAUSD, also declared that Knapp never filed a claim with LAUSD prior to filing her complaint against the school district. Neither did Knapp apply to PCHS, LAUSD or the court for leave to present a late claim. (§ 911.4.) Knapp thus failed to prove actual compliance with the claim presentation requirements of the Government Claims Act.

B. *No Substantial Compliance*

“The claims statutes should not be used as traps for the unwary where their purpose has been satisfied, and to that end, courts employ a test of substantial compliance rather than strict compliance in evaluating whether a plaintiff has met the demands of the claims statutes.” (*Life v. County of Los Angeles* (1991) 227 Cal.App.3d 894, 899.) “[T]o gauge the sufficiency of a particular claim, *two* tests shall be applied: Is there some compliance with *all* of the statutory requirements; and, if so, is this compliance sufficient to constitute *substantial* compliance?” (*City of San Jose v. Superior Court* (1974) 12 Cal.3d 447, 456-457.) “[S]ubstantial compliance under the statute demands that the misdirected claim be ‘actually received’ by the appropriate person or board. [Citation.] If a public employee has failed to fulfill a duty to forward a misdirected claim to the appropriate party, such claim cannot be in substantial compliance because it was not ‘actually received’ by the appropriate party.” (*Life v. County of Los Angeles, supra*, at p. 901; see § 915, subd. (d).)

Knapp's contentions that she substantially complied with the claim presentation requirements and that PCHS waived any defect are without merit. Nothing in the record shows the misdirected claim Knapp filed with the County of Los Angeles was ever forwarded to PCHS or LAUSD. Because neither PCHS nor LAUSD actually received that claim, neither could have waived its defects.

The letters, e-mail and phone calls from Knapp to Hosford were not sufficient to establish a claim under the Government Claims Act. The February 6, 2004 statement forwarded by Knapp to Hosford stated only that she "really didn't like what happened" and "wish[ed] it didn't happen." An e-mail sent on the same day by Dr. Knapp to Hosford requested her to call and gave notice that he had "spoken with" attorney Edwin Carney "but would like to proceed in as civil a manner as possible." The February 9, 2004 letter from Carney to Hosford requested "a meeting" with the principal and the "school's/district's counsel." The February 18, 2004 letter from Dr. Knapp to Hosford expressed disappointment that PCHS had "no interest in negotiating" a way to "resolve this situation," and advised that "[t]he matter has been turned over to our attorney and a resolution will be reached through the legal process." In none of these vaguely worded communications did Knapp meet the statutory requirements of a claim pursuant to section 910. Thus, Knapp has failed to establish as a matter of law that she substantially complied with the Government Claims Act.

III. KNAPP FAILED TO MEET HER BURDEN OF SHOWING THE EXISTENCE OF A TRIABLE ISSUE OF FACT THAT SHE WAS EXCUSED FROM FILING A CLAIM WITH LAUSD OR PCHS

Knapp contends she is excused from filing the government claim, because PCHS is an independent entity from LAUSD, and because PCHS did not file the requisite information with the Secretary of State and the county clerk for listing on the Roster of Public Agencies. As explained below, after examining the Charter Schools Act and the prerequisites for registration with the Secretary of State and county clerk, we determine both that PCHS is a subdivision of LAUSD and that it need not be listed on the Roster of

Public Agencies. As a result, we hold that Knapp should have filed her claim with LAUSD and is not excused from complying with the Government Claims Act.

A. *The Charter Schools Act Assigns Control to LAUSD*

The Charter Schools Act of 1992 (Ed. Code, § 47600 et seq.) provides for the establishment and operation of charter schools that operate independently of existing school districts, but are held accountable for their students' educational progress.⁶ (See 56 Cal.Jur.3d (2004) Schools, § 214.) The charter establishing a charter school is a contract detailing the school's educational programs, goals, students served, measurable pupil outcomes and measurement methods, and the school's governance structure. (Ed. Code, § 47605, subd. (b)(5).) Charters are granted for a specific term, typically not in excess of five years, by a school district, a county office of education, or the State Board of Education. At the end of the term, the entity granting the charter may renew the school's contract. (Ed. Code, § 47607.)

“[C]harter school officials are officers of public schools to the same extent as members of other boards of education of public school districts. So long as they administer charter schools according to the law and their charters, as they are presumed to do, they stand on the same constitutional footing as noncharter school board members.

⁶ The purpose of the Charter School Act is “to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following: [¶] (a) Improve pupil learning. [¶] (b) Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving. [¶] (c) Encourage the use of different and innovative teaching methods. [¶] (d) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the schoolsite. [¶] (e) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system. [¶] (f) Hold the schools established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a method to change from rule-based to performance-based accountability systems. [¶] (g) Provide vigorous competition within the public school system to stimulate continual improvements in all public schools.” (Ed. Code, § 47601.)

If they violate the law, the charter will be revoked.” (*Wilson v. State Bd. of Education* (1999) 75 Cal.App.4th 1125, 1141.)

In 1998, the Attorney General interpreted the Charter Schools Act to mean that “a charter school may not be formed as a separate legal entity from the school district that granted the charter. Whether a charter school may exercise such independent legal rights as to sue and be sued . . . is governed by the provisions of the particular charter. (See [Ed. Code,] § 47601; 80 Ops.Cal.Atty.Gen. 52, 55-56 (1997).)” (81 Op.Cal.Atty.Gen. 140, 144 (1998).) “While a few of the provisions of the Act may suggest the possibility of a charter school’s legal separation from a school district, the provisions of the Act in their entirety envision only an operational independence that is sufficient for the purposes sought to be accomplished. Provisions that could be construed as consistent with legal separation include section 47610, relating to the general operation of a charter school: ‘A charter school shall comply with all of the provisions set forth in its charter petition, but is otherwise exempt from the laws governing school districts except as specified in Sections 47611 and 41365.’ [Fn. omitted.]”⁷ (*Id.* at p. 141.)

Effective 1999, Education Code section 47604 was added to the Charter Schools Act to provide that “[c]harter schools may elect to operate as, or be operated by, a nonprofit public benefit corporation, formed and organized pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2

⁷ For example, under Education Code section 47610, relating to the general operation of a charter school: “A charter school shall comply with this part and all of the provisions set forth in its charter, but is otherwise exempt from the laws governing school districts, except all of the following: [¶] (a) As specified in Section 47611 [State Teacher’s Retirement System]. [¶] (b) As specified in Section 41365 [allows charter schools that are not conversions of existing schools to obtain loans from the state upon approval of the Superintendent of Public Instruction]. [¶] (c) All laws establishing minimum age for public school attendance. [¶] (d) The California Building Code (Part 2 (commencing with Section 101) of Title 24 of the California Code of Regulations), as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located. [¶] (e) Charter school facilities shall comply with subdivision (d) by January 1, 2007.” (Ed. Code, § 47610.)

of Title 1) of the Corporations Code).” (Cal. Ed. Code, § 47604, subd. (a); added by Stats. 1998, ch. 34, § 3.)⁸ The school district granting the charter is entitled to one representative on the board of directors. (*Ibid.*)

The court in *Wilson v. State Bd. of Education*, in addressing constitutional control over charter schools, observed that “constitutional control over charter schools, are in place whether a school elects to ‘operate as, or be operated by, a nonprofit public benefit corporation’ ([Ed. Code,] § 47604, subd. (a)), or whether it remains strictly under the legal umbrella of the chartering authority. In other words, even a school operated by a nonprofit could never stray from under the wings of the chartering authority, the Board, and the Superintendent. We note too that situating the locus of control with the public school system rather than the nonprofit is not incompatible with the laws governing nonprofit public benefit corporations. Specifically, one of their enumerated powers is to ‘[p]articipate with others in any partnership, joint venture or other association, transaction or arrangement of any kind *whether or not such participation involves sharing or delegation of control with or to others.*’ (Corp. Code, § 5140, subd. (j), italics added.)” (*Wilson v. State Bd. of Education*, (1999) 75 Cal.App.4th 1124, 1140.) This language suggests that the locus of control generally rests with the school district, not the charter school that has incorporated as a nonprofit public benefit corporation.

⁸ Public benefit corporations are formed for a public or charitable purpose. They are not operated for the mutual benefit of their members but for some broader good. Articles of incorporation containing specified information must be filed in order to form a public benefit corporation. (Corp. Code, §§ 5120-5122.) “For all purposes other than an action in the nature of quo warranto, a copy of the articles of a corporation duly certified by the Secretary of State is conclusive evidence of the formation of the corporation and prima facie evidence of its corporate existence.” (Corp. Code, § 5133.) In addition, the bylaws “shall set forth (unless such provision is contained in the articles, in which case it may only be changed by an amendment of the articles) the number of directors of the corporation” and “may contain any provision, not in conflict with law or the articles, the management of the activities and for the conduct of the affairs of the corporation,” (Corp. Code, § 5151, subs. (a), (c).)

B. PCHS Did Not Need to File in the Roster of Public Agencies

For purposes of the Roster of Public Agencies, “public agency” “means a district, public authority, public agency, and any other political subdivision or public corporation in the state, but does not include the state or a county, city and county, or city.”

(§ 53050.) Knapp asserts that PCHS is such an agency, and was required to file in the Roster. Its failure to do so, she argues, bars the application of the Governmental Claims Act, citing as her primary authority *Wilson v. San Francisco Redevelopment Agency* (1977) 19 Cal.3d 555, which held that “substantial noncompliance by the agency with the requirements of section 53051 unconditionally excuses the claimant from filing a claim.” (*Id.* at p. 560.)⁹ There, the injured plaintiff filed his damage claim under the Government Claims Act against the wrong public entity. His injury claim was not timely against the agency as required by section 911.2. (*Id.* at p. 558-559.) Because the agency had failed to supply timely information pursuant to section 53051 to the Roster of Public Agencies as required by section 946.4, the Supreme Court held the complaint alleged a valid excuse for plaintiff’s failure to file a timely claim. (*Id.* at p. 560.) However, *Wilson v.*

⁹ “Under section 946.4, subdivision (a), . . . a failure to file a claim does not bar an action against the public agency if, during the period of 70 days immediately after the cause of action accrues, the agency has failed to file in the Roster of Public Agencies, in the office of the Secretary of State and with the county clerk, information concerning itself which substantially conforms to the requirements of section 53051. The latter section, in turn, requires that within 70 days after its creation the governing board of each agency shall file with the Secretary of State and the clerks of those counties in which it maintains an office a statement containing (1) its name and address, (2) the name and address of each member of the governing board, and (3) the name, title and address of the officers. Within 10 days of any change in the foregoing data, an amended statement reflecting the changes must be filed.” (*Wilson v. San Francisco Redevelopment Agency, supra*, 19 Cal.3d 555, 557-558; see § 53051.) “[O]ne of the probable legislative purposes underlying section 946.4 is to assure compliance by public entities with section 53051 thus supplying correct and complete information to the Roster of Public Agencies.” (*Wilson v. San Francisco Redevelopment Agency, supra*, 19 Cal.3d at p. 558.) Thus, “to serve such purpose, section 946.4 should be construed to excuse plaintiff’s noncompliance” with the Government Claim Act. (*Ibid.*)

San Francisco Redevelopment Agency is inapposite to the facts here, because a charter school is not analogous to a redevelopment agency. “In general, a redevelopment agency is a separate legal entity from the city that established it, and the city is not liable for the debts of the agency. [Citation.]” (*County of Solano v. Vallejo Redevelopment Agency* (1999) 75 Cal.App.4th 1262, 1267.)

Hovd v. Hayward Unified Sch. Dist. (1977) 74 Cal.App.3d 470 is more instructive on the facts here. *Hovd* involved an action against a vocational skills center of a school district. There, the court held that the center was “not a public agency within the meaning of sections 53050 and 53051. The language of section 53050 does not reflect a legislative intent that the article apply to subdivisions of a district, such as the Vocational Skills Center. Furthermore, section 53051, which requires a statement of the name and address of the governing board, as well as those of its officers, is clearly directed toward the governing body of a public agency, and not to its subdivisions.” (*Id.* at p. 472.)

While the charter of PCHS provides an indemnification clause that holds LAUSD harmless from the defense of any claims, liabilities or legal proceedings that arise from the acts of PCHS officers or employees,¹⁰ a plain reading of that clause shows the parties intended only for LAUSD to enforce the indemnification clause as the grantor of the charter. The indemnification clause does not change the essential relationship between the school district and the charter school, whose independence is enumerated, temporal and conditional.

¹⁰ “Hold Harmless/Indemnification. [¶] The charter school does hereby agree, at its own expense, to indemnify, defend, and hold the District, its officers and employees harmless from and against any and all claims, liabilities, or legal proceedings brought by any person or entity whatsoever, arising from, or relating to the charter agreement. The charter school further agrees to indemnify, defend, and hold the District, its officers and employees harmless from and against claims, liabilities, or legal proceedings brought by any person or entity if such claims, liabilities, or proceedings arise from or relate to acts or omissions of acts committed by the charter school, its officers, or its employees. [¶] The charter school shall be responsible at its own expense for defending any claims, liabilities, or legal proceedings brought against the charter school by any person or entity.”

We hold that as a subdivision of LAUSD, PCHS is not a public agency within the meaning of section 53050 separately required to register with the Secretary of State and the county clerk for the Roster of Public Agencies.¹¹ Neither would PCHS's incorporation as a nonprofit public benefit corporation, assuming that were the case, change this relationship. On her appeal, as before the trial court, Knapp has not provided in the record any evidence that would suggest otherwise. Thus, while PCHS and LAUSD are independent legal entities, we conclude that PCHS is a subdivision of its chartering authority, because its existence, funding and charter depend on LAUSD. Our conclusion comports with the prevailing view that charter schools are operationally rather than legally independent from their chartering authorities.

We agree with the trial court that Knapp had an obligation to file her claim with LAUSD and failed to do so. Knapp is not otherwise excused from compliance with the Government Claims Act. Accordingly, we affirm.¹²

¹¹ The Supreme Court has granted review in a case that presents the following question: “Is a *public entity, such as a charter school*, a ‘person’ within the meaning of the False Claim Act (Gov. Code, [§] 12560 et seq.) and thus subject to a qui tam cause of action for allegedly obtaining payments from the state to which it was not entitled?” (See *Wells v. One2One Learning Foundation* (2004) 116 Cal.App.4th 515, review granted June 8, 2004, S123951, italics added.) The charter schools in that case were incorporated and/or operated by nonprofit public benefit corporations, and were not listed on the Roster of Public Agencies. (*Id.* at p. 530.)

¹² Having determined this threshold question, we do not need to reach the remaining issue on damages.

DISPOSITION

The judgment is affirmed. Respondents shall recover their costs on appeal.

CERTIFIED FOR PUBLICATION

ZELON, J.

We concur:

PERLUSS, P. J.

WOODS, J.