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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 DELFINA MOTA,
12 Plaintiff,

13 v.

14 TRI-CITY HEALTHCARE DISTRICT
15 dba TRI-CITY MEDICAL CENTER;
16 UNITED STATES OF AMERICA;
17 DAVID SEIF, M.D.; ANESTHESIA
18 SERVICES MEDICAL GROUP, INC.,
19 and DOES 1 through 30, inclusive,

20 Defendants.

Case No.: 19-cv-1212-AJB-NLS
Related Case: 18-cv-2775-AJB-NLS

**ORDER GRANTING DEFENDANT
TRI-CITY HEALTHCARE DISTRICT
DBA TRI-CITY MEDICAL CENTER'S
MOTION FOR SUMMARY
JUDGMENT**

(Doc. No. 50)

21 Pending before the Court is Defendant Tri-City Healthcare District dba Tri-City
22 Medical Center's ("TCHD") motion for summary judgment of Plaintiff Delfina Mota's
23 ("Mota") claims for failure to present a government claim as required by California
24 Government Code § 915(a). (Doc. No. 50.) Mota filed an opposition to the motion. (Doc.
25 No. 50.) TCHD thereafter replied to Mota's opposition. (Doc. No. 53.) Pursuant to Civil
26 Local Rule 7.1.d.1, the Court finds the instant matter suitable for determination on the
27 papers and without oral argument. For the reasons set forth more fully below, the Court
28 **GRANTS** TCHD Defendant's motion for summary judgment.

1 **I. BACKGROUND**

2 On or about November 15, 2017, at approximately 11:51 am, Mota, who was 41
3 weeks and 4 days pregnant, presented to co-Defendant TCHD, for the inducement of labor.
4 (Second Amended Complaint (“SAC”), Doc. No. 29, ¶ 24.) Mota’s claims for medical
5 malpractice and medical battery arise out of the performance of a cesarian section surgery,
6 allegedly without the benefit of anesthesia, upon Mota during the labor and delivery of her
7 child. (Doc. No. 52 at 1.)

8 Plaintiffs filed their First Amended Complaint in state court. The United States then
9 removed Plaintiffs’ action to this Court on June 28, 2019. (Doc. No. 1.) On July 5, 2019,
10 ASMG Defendants filed a motion to dismiss Plaintiffs’ FAC. (Doc. No. 3.) On November
11 21, 2019, the United States filed a motion to dismiss Plaintiffs Paul Iheanachor
12 (“Iheanachor”) and Salazar for failure to state a claim. (Doc. No. 20.) On March 16, 2020,
13 this Court dismissed Iheanachor’s NIED claims against the United States and ASMG
14 Defendants, and this Court dismissed Mota’s medical battery claim against ASMG
15 Defendants, both without leave to amend. (*See generally* Doc. No. 28.) Plaintiffs filed a
16 SAC on March 23, 2020. (Doc. No. 29.) The SAC asserts claims for (1) medical
17 malpractice by Mota against all Defendants, (2) medical battery by Mota against
18 Defendants United States and Tri-City and, (3) NIED by Salazar against all Defendants.
19 (*Id.*) The United States and ASMG Defendants thereafter moved to dismiss only the NIED
20 claims brought by Salazar. (Doc. Nos. 35, 37.) On March 24, 2021, this Court granted
21 Defendants’ United States and ASMG’s motion to dismiss Plaintiff Salazar’s NIED claim
22 without leave to amend. (Doc. No. 44.) The instant motion follows.

23 At all relevant times, TCHD owned and operated Tri-City Medical Center. (Doc.
24 No. 50 at 5.) TCHD was a local public entity in the form of a public hospital district,
25 defined by California Government Code § 900.4, and subject to the claims presentation
26 requirements under California Government Code §§ 910 et. seq. (*Id.* at 6.) TCHD has a
27 governing board, consisting of a chairperson, vice chairperson, secretary, treasurer,
28 assistant secretary, assistant treasurer, and a board member at large. (*Id.*) TCHD did not

1 have a designated auditor at any relevant time. (*Id.*)

2 On March 9, 2018, counsel for Mota sent a certified letter containing a notice of
3 claim against TCHD, addressed to: “Tri-City Healthcare District, Tri-City Medical Center,
4 4002 Vista Way, Oceanside, CA 92056, Attention: Legal Affairs, pertaining to the
5 ‘NOTICE OF CLAIM AGAINST PUBLIC ENTITY PURSUANT TO CALIFORNIA
6 GOVERNMENT CODE SECTION 900, et seq.’” (Doc. No. 52 at 3.) As of March 2018,
7 the person most knowledgeable at TCHD with regard to handling tort claims against TCHD
8 was Marsha Cavanaugh, TCHD’s risk manager. (*Id.*) The notice of claim was received by
9 Ms. Cavanaugh, who then turned it over to Susan M. Bond, Esq., head of TCHD’s legal
10 department, sometime in April 2018. (*Id.* at 3–4.) Ms. Bond thereafter notified outside
11 counsel that she was served with the tort claim notice and, while under direction of outside
12 counsel, did not forward a copy of the claim to any member of the Board. (*Id.* at 4.)

13 II. LEGAL STANDARD

14 A court may grant summary judgment when it is demonstrated that there exists no
15 genuine dispute as to any material fact, and that the moving party is entitled to judgment
16 as a matter of law. *See* Fed. R. Civ. P. 56(a); *Adickes v. S.H. Kress & Co.*, 398 U.S. 144,
17 157 (1970). The party seeking summary judgment bears the initial burden of informing a
18 court of the basis for its motion and of identifying the portions of the declarations,
19 pleadings, and discovery that demonstrate an absence of a genuine dispute of material fact.
20 *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). A fact is “material” if it might
21 affect the outcome of the suit under the governing law. *See Anderson v. Liberty Lobby,*
22 *Inc.*, 477 U.S. 242, 248–49 (1986). A dispute is “genuine” as to a material fact if there is
23 sufficient evidence for a reasonable jury to return a verdict for the nonmoving party. *See*
24 *Long v. Cty. of L.A.*, 442 F.3d 1178, 1185 (9th Cir. 2006).

25 Where the moving party will have the burden of proof on an issue at trial, the movant
26 must affirmatively demonstrate that no reasonable trier of fact could find other than for the
27 movant. *See Soremekun v. Thrifty Payless, Inc.*, 509 F.3d 978, 984 (9th Cir. 2007). Where
28 the non-moving party will have the burden of proof on an issue at trial, the movant may

1 prevail by presenting evidence that negates an essential element of the non-moving party’s
2 claim or by merely pointing out that there is an absence of evidence to support an essential
3 element of the non-moving party’s claim. *See Nissan Fire & Marine Ins. Co. v. Fritz*
4 *Companies*, 210 F.3d 1099, 1102–03 (9th Cir. 2000). If a moving party fails to carry its
5 burden of production, then “the non-moving party has no obligation to produce anything,
6 even if the non-moving party would have the ultimate burden of persuasion.” *Id.* If the
7 moving party meets its initial burden, the burden then shifts to the opposing party to
8 establish that a genuine dispute as to any material fact actually exists. *See Matsushita Elec.*
9 *Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). The opposing party cannot
10 “rest upon the mere allegations or denials of [its] pleading but must instead produce
11 evidence that sets forth specific facts showing that there is a genuine issue for trial.” *See*
12 *Estate of Tucker*, 515 F.3d 1019, 1030 (9th Cir. 2008) (internal quotation marks and
13 citation omitted).

14 The evidence of the opposing party is to be believed, and all reasonable inferences
15 that may be drawn from the facts placed before a court must be drawn in favor of the
16 opposing party. *See Stegall v. Citadel Broad, Inc.*, 350 F.3d 1061, 1065 (9th Cir. 2003).
17 However, “[b]ald assertions that genuine issues of material fact exist are insufficient.” *See*
18 *Galen v. County of Los Angeles*, 477 F.3d 652, 658 (9th Cir. 2007); *see also Day v. Sears*
19 *Holdings Corp.*, No. 11–09068, 2013 WL 1010547, at *4 (C.D. Cal. Mar. 13, 2013)
20 (“Conclusory, speculative testimony in affidavits and moving papers is insufficient to raise
21 genuine issues of fact and defeat summary judgment.”). Further, a “motion for summary
22 judgment may not be defeated . . . by evidence that is ‘merely colorable’ or ‘is not
23 significantly probative.’” *See Anderson*, 477 U.S. at 249–50; *see also Hardage v. CBS*
24 *Broad. Inc.*, 427 F.3d 1177, 1183 (9th Cir. 2006) (same). If the nonmoving party fails to
25 produce evidence sufficient to create a genuine dispute of material fact, the moving party
26 is entitled to summary judgment. *See Nissan Fire & Marine*, 210 F.3d at 1103.

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1 **III. DISCUSSION**

2 **A. Defendant TCHD’s Motion for Summary Judgment**

3 TCHD moves for summary judgment based upon Mota’s alleged failure to timely
4 present her tort claim to TCHD as required by California Government Code § 915. (Doc.
5 No. 50 at 8.) Mota responds that the notice was delivered to the legal department and the
6 handling and distribution of the notice thereafter was dependent on the instruction by
7 outside legal counsel. (Doc. No. 52 at 5.) Mota further asserts that Ms. Bond testified during
8 her deposition that “she probably had a discussion with Steve Dietlin, the Boards CEO,
9 about Ms. Mota’s claims[.]” (*Id.*) Additionally, Mota requests the Court to defer
10 considering the instant motion to allow her time to take additional discovery. (*Id.* at 6.)
11 TCHD replies that there is no evidence that Mota’s claim was received by the Tri-City
12 Medical Center Board and that TCHD has “presented affirmative, undisputed evidence that
13 plaintiff’s claim was not delivered to the Board.” (Doc. No. 53 at 4.) TCHD also opposes
14 Mota’s request for time to take additional discovery. (*Id.* at 7–8.)

15 Before pursuing a claim for personal injury as a result of the actions or inactions of
16 a local public governmental entity, a plaintiff must present a tort claim within six months
17 of the incident pursuant to Government Code § 915. Cal. Gov’t. Code § 911.2(a). The claim
18 must be presented to the local public entity by:

- 19 (1) Delivering it to the clerk, secretary, or auditor thereof.
20 (2) Mailing it to the clerk, secretary, auditor, or to the governing body at its
21 principal office.
22 (3) If expressly authorized by an ordinance or resolution of the public entity,
23 submitting it electronically to the public entity in the manner specified in the
24 ordinance or resolution.

25 Cal. Gov’t. Code § 915(a). The California Supreme Court in *DiCampli–Mintz v. County*
26 *of Santa Clara*, 55 Cal. 4th 983, 986 (2012), has underscored the necessity of strict
27 compliance with the claim presentment requirements set forth in Section 915(a) of the
28 Government Code. The state supreme court explained:

Even if the public entity has actual knowledge of facts that might support a
claim, the claims statute still must be satisfied. The filing of a claim is a

1 condition precedent to the maintenance of any cause of action against the
2 public entity and is therefore an element that a plaintiff is required to prove in
3 order to prevail.

4 A goal of the Government Claims Act is to eliminate confusion and
5 uncertainty resulting from different claims procedures. [T]he purpose of the
6 claims statute is not to prevent surprise, but to provide the public entity
7 sufficient information to enable it to adequately investigate claims and to
8 settle them, if appropriate, without the expense of litigation. . . The claims
9 statutes also enable the public entity to engage in fiscal planning for potential
10 liabilities in the future.

11 Moreover, the intent of the Government Claims Act is not to expand the rights
12 of plaintiffs against government entities. Rather, the intent of the act is to
13 confine potential governmental liability to rigidly delineated circumstances.

14 *See DiCampli–Mintz*, 55 Cal. 4th at 990–91 (internal quotation marks and citations
15 omitted). Accordingly, “after *DiCampli–Mintz*, either there must be strict compliance with
16 § 915(a) or the only way to ‘substantially comply’ with § 915(a) is if there is actual receipt
17 of [a] misdirected claim by one of the statutorily designated recipients (i.e. § 915(e)).” *See*
18 *e.g. Jefferson v. City of Fremont*, No. C-12-0926 EMC., 2013 WL 1747917, at *9 (N.D.
19 Cal. Apr. 23, 2013) (granting Defendant's motion to dismiss for insufficient allegations of
20 compliance under § 915(a) or § 915(e)).

21 Specifically, Section 915(e) states:

22 (e) A claim, amendment or application *shall be deemed to have been*
23 *presented in compliance with this section even though it is not delivered or*
24 *mailed as provided in this section if*, within the time prescribed for
25 presentation thereof, any of the following apply:

26 (1) *It is actually received* by the clerk, secretary, auditor or board of the local
27 public entity.

28 Cal. Gov’t. Code § 915 (emphasis added). Thus, a misdirected claim will only satisfy the
statute if a statutorily-designated recipient listed in § 915(e) actually receives it. If the
appropriate clerk, secretary, auditor, or governing body “never receives the claim, an
undirected or misdirected claim fails to comply with the statute.” *Jefferson*, 2013 WL
1747917, at *8; *see also Wilhite v. City of Bakersfield*, No. 1:11-CV-1693 AWI JLT., 2012

1 WL 273088, at *5 (E.D. Cal. Jan. 30, 2012) (“‘substantial compliance’ with § 915 requires
2 that a misdirected claim be ‘actually received’ by the appropriate person or board within
3 the time prescribed for presentation of such a claim.”)

4 Here, it is undisputed that Mota neither delivered nor mailed her claim to the
5 appropriate clerk, secretary, auditor, or governing body of TCHD, as required by § 915(a).
6 (*See generally* Doc. No. 52.) Rather, Mota mailed her claim to TCHD with attention to
7 “Legal Affairs,” where it was received first by Marsha Cavanaugh in the Risk Management
8 department, and thereafter by TCHD’s legal counsel, Susan Bond. (*Id.* at 3.) Thus, the
9 Court looks to whether § 915(e) is satisfied. Although Mota raises the possibility that Ms.
10 Bond discussed the claim with Steve Dietlin, TCHD’s CEO, this fails to satisfy the
11 requirements of § 915(e). First, Mr. Dietlin is not a member of TCHD’s board, but is rather
12 CEO of the hospital. (Doc. No. 53 at 7.) Additionally, “[i]t is well-settled that claims
13 statutes must be satisfied even in face of the public entity’s actual knowledge of the
14 circumstances surrounding the claim.” *DiCampli-Mintz*, 55 Cal. 4th at 991 (quoting *City*
15 *of Stockton v. Sup. Ct.*, 42 Cal. 4th 730, 738 (2007)) (internal quotations omitted). “Such
16 knowledge—standing alone—constitutes neither substantial compliance nor basis for
17 estoppel.” *Willis v. City of Carlsbad*, 48 Cal. App. 5th 1104, 1122 (2020) (quoting *J.J. v.*
18 *Cty. of San Diego*, 223 Cal. App. 4th 1214, 1219 (2014)). Thus, even if Ms. Bond discussed
19 the publicity surrounding Mota’s claim at a TCHD board meeting, § 915(e)(1)’s provision
20 deeming actual receipt of the misdirected claim to constitute compliance was not satisfied.
21 Accordingly, the Court **GRANTS** Defendant TCHD’s motion for summary judgment
22 based upon Plaintiff Mota’s failure to timely present her tort claim to TCHD as required
23 by California Government Code § 915.

24 **B. Plaintiff’s Request for Additional Discovery**

25 Plaintiff requests the Court to permit additional discovery in lieu of entering
26 summary judgment if the Court is inclined to grant TCHD’s motion. (Doc. No. 52 at 6.)
27 Plaintiff specifically requests that the instant motion be deferred to allow Mota an
28 opportunity to conduct additionally discovery, “such as request production of the Board of

1 Directors Meeting Minutes, for the applicable period, as well as the taking the depositions
2 of Marsha Cavanaugh, former risk manager of Defendant, TCHCD, Steve Dietlin, the CEO
3 of Defendant, TCHCD, and possibly other Board of Directors as well.” (*Id.* at 6.) Defendant
4 challenges Plaintiff’s request, stating Mota has had ample notice of the defect in her case
5 against TCHD and has not sought or completed additional discovery beyond deposing Ms.
6 Bond. (Doc. No. 53 at 7–8.) Defendant additionally notes Ms. Bond has already testified
7 that she did not deliver the claim to TCHD’s board of directors. (*Id.* at 8.)


8 Even assuming Mota is able to show through further discovery that Ms. Bond
9 discussed Mota’s claim with the board of directors, this alone fails to establish a material
10 issue of fact for trial. As discussed above, mere communications regarding a claim does
11 not amount to substantial compliance with California Government Code § 915.
12 Accordingly, the Court **DENIES** Plaintiff’s request for a deferred ruling and additional
13 discovery. *Stevens v. Corelogic, Inc.*, 899 F.3d 666, 678 (9th Cir. 2018) (“[F]or purposes
14 of a Rule 56(d) request, the evidence sought must be more than ‘the object of pure
15 speculation.’”) (citation omitted).

16 **IV. CONCLUSION**

17 Based on the foregoing, the Court **GRANTS** Defendant’s motion for summary
18 judgment and **DENIES** Plaintiff’s request for a deferred ruling and additional discovery.

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20 **IT IS SO ORDERED.**

21 Dated: October 4, 2021

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23 Hon. Anthony J. Battaglia
24 United States District Judge
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