

Agency Notice of Deadline for Filing Suit Was Defective

An administrative agency must provide the notice required under Code of Civil Procedure section 1094.6(f) specifying when its decision becomes final, and may not add potentially confusing information that undermines the statutory purpose of eliminating doubt as to when the statute of limitations begins to run. [Alford v. County of Los Angeles](#), No. B293393 (2nd Dist., July 1, 2020). Plaintiff filed a mandamus action challenging an administrative decision by the Los Angeles County Department of Children and Family Services. The

was not filed within 90 days of the Department's final decision 1094.6. A decision becomes "final" under that statute. Plaintiff cited undisputed evidence that plaintiff did not file his petition within the 90-day period of the Department's decision.



The court of appeal found that plaintiff's action was

timely because the Department's notice did not comply with the statutory requirements. Code of Civil Procedure section 1094.6(f) requires the agency to "provide notice to the party that the time within which judicial review must be sought is governed by" section 1094.6. The 90-day limitations period under section 1094.6 does not begin to run until this notice is given. In this instance, the court found, the agency's notice was deficient because it gave plaintiff conflicting information about the filing deadline. The notice said the Department's decision was final, and that section 1094.6 required plaintiff to file any petition no later than "the 90th day on which the petition is deemed final." But the notice also said the decision would become final "90 days from the date it is placed in the mail." The notice thus gave plaintiff inconsistent information about when the Department's decision became final. It complied with the statutory requirement of notifying plaintiff that the filing deadline was governed by section 1094.6; but it added the confusing and conflicting statement that "[t]he decision will become final 90 days from the date it is placed in the mail," which was contrary to the language of the statute. The Department conceded its notice may have confused plaintiff but argued that this could not change plaintiff's obligation to file within the statutory deadline because the notice clearly informed plaintiff that the action was governed by the time limit in section 1094.6. The court disagreed, pointing out that the notice could be

reasonably understood to mean the decision was not final until 90 days *after* it was mailed rather than *on* the date it was mailed, as the statute provides. In light of the statutory goal of eliminating doubt as to when a decision is final, agencies must provide the notice specified in the statute, and may "not add confusing information to the required notice that could mislead affected parties about the timing for seeking judicial review." Because the Department's notice did not comply with the statute, plaintiff's petition was not time-barred.

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