§ 2638. Actions against the commission. 1. In an action against the commission founded upon tort, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which the action is founded were presented to a member of the commission and to its secretary or to its chief executive officer, and that the commission has neglected or refused to make an adjustment or payment thereof for thirty days after the presentment.

2. In a case founded upon tort, a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the commission or an officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. No action shall be commenced more than one year and ninety days after the cause of action therefor shall have accrued, except an action against the commission for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.