



Board Agenda Item 42

DATE: November 5, 2024

TO: Board of Supervisors

SUBMITTED BY: Hollis Magill, Director of Human Resources

SUBJECT: Resolutions Rejecting Claims for Damages and Denying Application for Leave to Present a Late Claim

RECOMMENDED ACTION(S):

- 1. Adopt Resolutions Rejecting Claims for Damages; and**
- 2. Adopt Resolution Denying Application for Leave to Present a Late Claim**

There is no increase in Net County Cost associated with the recommended actions. After evaluation by the Claims Review Committee, submitted claims are presented to the Board with recommendations for action. If the claim is in the County's jurisdiction, the Summary of Claims denotes the affected supervisorial district.

ALTERNATIVE ACTION:

For any claim, your Board could choose not to approve the Claims Review Committee's recommendations, and instead direct staff to allow, compromise, settle, or further investigate the claim.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. Payment of claims and the cost of defending claims are charged to the Department's Org 8925, Risk Management Internal Services Fund. The Fund is supported by annual budgetary contributions from County departments based on actuarial projections.

DISCUSSION:

The Board has delegated authority to the Human Resources Director to allow, reject, compromise, or settle claims for damages covered by the County's self-insured program or excess liability insurance in amounts up to \$50,000 pursuant to Chapter 5.02 of the County's Ordinance Code. Similarly, the board has delegated authority to the County Administrative Officer to settle or compromise claims up to the same amount. Claims exceeding that amount are referred to your Board after evaluation by the Claims Review Committee (CRC). The CRC considers various claim elements, which include jurisdiction, allocation of fault, immunities, and compliance with the Government Claims Act by claimants. The CRC consists of the Human Resources Director, Assistant Director of Human Resources, Risk Management staff, and a Chief Deputy County Counsel.

For all claims, a reserve is established, which is estimated by Risk Management to be sufficient to pay the cost of investigating and defending the claim, and to pay any damages for which the County is liable.

After evaluation by the CRC, claims exceeding the authority of the Human Resources Director and the

County Administrative Officer are presented to the Board with a recommendation for action on each claim. Upon rejection of a claim, the claimant has six months to file a lawsuit against the County for damages based on the claim.

The CRC has reviewed the claims that are summarized briefly below, and rejection is recommended for each claim.

Claims

<u>Claim No.:</u>	<u>Claimant(s)</u>
11063	Candace Smith
11155	Adam Woodson
11164	Shawn Marcelli, Timothy Recek, Thomas Bagdasarian and Christina Bagdasarian
11240	New Life Physical Therapy Services, PC DBA Health Pro Pediatrics
11250	Brent Pilegard
11259	Alexander Almendarez
11261	Kwabena Watson Jr.
11265	Damien Ruiz and Janale Ruiz

Application for Leave to Present a Late Claim for Damages

<u>Claim No.:</u>	<u>Claimant</u>
11254	Sandra Fournet

Summary of Claims

Candace Smith - Claimant claims \$100,000 and alleges Fresno County caused unidentified third parties to pursue her in their vehicles, crash into her vehicle to obtain insurance money, steal the claimant's mail and other property, and lie about the claimant, which was the proximate cause of the claimant's injuries. Claimant is not represented by an attorney. This incident is alleged to have occurred in District 5.

Adam Woodson - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges a security guard at Exodus Recovery, Inc. used excessive force on him, which was the proximate cause of the claimant's injuries. The vendor has a contract with the Department of Behavioral Health. Claimant is not represented by an attorney. This incident is alleged to have occurred in District 3.

Shawn Marcelli, Timothy Recek, Thomas Bagdasarian and Christine Bagdasarian - Claimants each claim in excess of \$35,000 (the jurisdictional amount for limited civil cases) and they allege a Sheriff deputy failed to terminate a pursuit that led to a third party hitting the vehicle of their mother and resulted in her death, which was the proximate cause of the claimants' injuries. Claimants are represented by attorney Kristen Cary. This incident is alleged to have occurred in District 4.

New Life Physical Therapy Services, PC DBA Health Pro Pediatrics - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges monetary loss due to breach of contract for therapy services rendered to students enrolled in Firebaugh-Las Deltas Unified School District, which was the proximate cause of the claimant's injuries. Claimant is represented by attorney Jarryd Cooper. This incident does not involve the County of Fresno because it is alleged to have involved Firebaugh-Las Deltas Unified School District.

Brent Pilegard - Claimant claims \$120,000 and alleges Sheriff deputies were involved in stealing items from his property and covered up the theft, which was the proximate cause of the claimant's injuries. Claimant is not represented by an attorney. This incident is alleged to have occurred in District 1.

Alexander Almendarez - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges the negligence and poor maintenance of the diving board at Crandell Swim Complex caused the claimant to slip and fall, which was the proximate cause of the claimant's injuries. Claimant is represented by attorney Darin Spiegel. This incident does not involve the County of Fresno because it is alleged to have occurred in the jurisdiction of the City of Kingsburg.

Kwabena Watson Jr. - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges he was charged with resisting arrest based on a misleading report written by a Sheriff deputy and defended himself in court in which the jury found him not guilty, which was the proximate cause of the claimant's injuries. Claimant is represented by attorney Kevin Little. This incident is alleged to have occurred in District 5.

Damien Ruiz and Janale Ruiz - Claimants each claim in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges Fresno County jail staff failed to notify claimant Damien Ruiz that industrial strength chemicals were used before claimant unclogged a drain. As claimant attempted to unclog the drain, water splashed onto him, which was the proximate cause of the claimant's injuries. Claimant Janale Ruiz alleges loss of consortium due to the alleged injury to claimant Damien Ruiz, who is her husband. Claimants are represented by attorney Jason Bell. This incident is alleged to have occurred in District 3.

Summary of Application for Leave to Present a Late Claim

Sandra Fournet - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges a hazardous condition of a sidewalk near or at 5005 N. Roosevelt Avenue #J, Fresno CA 93704 resulted in a trip and fall, which was the proximate cause of the claimant's injuries. Claimant alleges mistake, inadvertence, and excusable neglect because they filed a claim with the City of Fresno after incident occurred, and waited until after that claim was rejected by the City before seeking leave to present this late claim to the County. The claim was submitted 8 months after the date of loss. The CRC recommends that this late claim application be denied because the application does not establish any of the criteria set forth in Government Code section 911.6, subdivision (b), for granting such an application. Claimant is represented by attorney Michael Hergenroether. This incident is alleged to have occurred in District 2.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolutions Rejecting Claims for Damages (8)
On file with Clerk - Resolution Denying Late Claim for Damages

CAO ANALYST:

Paige Benavides