



Board Agenda Item 47

DATE: June 18, 2024

TO: Board of Supervisors

SUBMITTED BY: Hollis Magill, Director of Human Resources

SUBJECT: Resolutions Rejecting Claims for Damages

RECOMMENDED ACTION(S):

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

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.

Application(s) for Leave to Present a Late Claim for Damages

<u>Claim No.:</u>	<u>Claimant(s)</u>
11122	2 Minors
11122	Francisco Cortez

Claims

<u>Claim No.:</u>	<u>Claimant(s)</u>
10813	Darrell Lewis
11105	Kerri Ono
11107	Falvey Ingram Jr.
11111	Vivian Matlock and a Minor
11117	Gloria Lustre-Barcelos
11118	Monique Moreno
11120	David He
11122	2 Minors
11123	Rebecca Upshaw
11124	Steven Shepard and Valerie Whisenhunt
11128	Ricky Foster
11131	Miguel Garcia
11135	Onofre Carrillo

Summary of Application(s) for Leave to Present a Late Claim

2 Minors - Claimants each claim \$20,000,000 and both allege a hazardous condition of road located at the intersection of McMullin Grade and Manning Avenue resulted in a 2-vehicle accident that led to the death of the claimants' mother, which was the proximate cause of the claimants' injuries. Claimants allege that there were circumstances beyond their control as they were minors at all times since the incident. The CRC recommends that this late claim application be granted under Government Code section 911.6 subdivision (b)(2), due to "the person who sustained the alleged injury, damage or loss was a minor during all of the time". The CRC also recommend that the claims be rejected (see below). Claimants are represented by attorney Todd Walburg. This incident is alleged to have occurred in District 4.

Francisco Cortez - Claimant claims \$40,000,000 and alleges a hazardous condition of road located at the intersection of McMullin Grade and Manning Avenue resulted in a 2-vehicle accident that led to the death of the claimant's mother, which was the proximate cause of the claimant's injuries. Claimant alleges excusable neglect and inadvertence as he was mentally and physically incapacitated, but does not state specific facts in support of those allegations. The claim was submitted 9 months past the date of loss. Claimant is represented by attorney Todd Walburg. This incident is alleged to have occurred in District 4.

Summary of Claims

Darrell Lewis - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) for

injuries resulting from a vehicle v. pedestrian accident, involving the claimants in the vehicle and a third party who was a pedestrian on the sidewalk, near the intersection of Dakota and Cedar avenues, Fresno, CA. The accident resulted in the injuries of the party on the sidewalk. Claimant has been sued by the third party, and the claimant now seeks to shift some or all of their liability to the County on the ground that the location of the incident was a dangerous condition. Claimant is represented by attorney Douglas Brust. This incident does not involve the County of Fresno because it is alleged to have occurred in the City of Fresno.

Kerri Ono - Claimant claims \$500,000 and alleges a hazardous condition of sidewalk near 933 W. Clinton Avenue Fresno, CA resulted in a trip and fall, which was the proximate cause of the claimant's injuries. Claimant is represented by attorney Jason Kayne. This incident does not involve the County of Fresno because it is alleged to have occurred in the City of Fresno.

Falvey Ingram Jr. - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges they had to stand while riding a FAX bus when the driver slammed on the brakes throwing the client into the dashboard, which was the proximate cause of the claimant's injuries. Claimant is represented by attorney Frank Murillo. This incident does not involve the County of Fresno because the County does not own or operate FAX buses.

Vivian Matlock and a Minor - Claimant Vivian Matlock claims \$5,000,000 and the minor claims \$2,000,000 and they allege that they were detained for 12 hours, and Sheriff deputies entered their property without a warrant and caused property damage, which was the proximate cause of the claimants' injuries and damages. Claimants are not represented by an attorney. This incident is alleged to have occurred in District 5.

Gloria Lustre-Barcelos - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges there were inoperative traffic lights at the intersection of Abby Street and Belmont Avenue, Fresno, CA, resulting in a multi vehicle accident, which was the proximate cause of the claimant's injuries. Claimants are represented by attorney Joshua Zokaeem. This incident does not involve the County of Fresno because it is alleged to have occurred in the City of Fresno.

Monique Moreno - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges that they fell into a hole located outside her apartment complex at 4909 Balch Avenue, Fresno, CA, which was the proximate cause of the claimants' injuries. Claimants are represented by attorney Andrew Ryan. This incident does not involve the County of Fresno because it is alleged to have occurred in the City of Fresno.

David He - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges members of the Fresno Sheriff Department and the Reedley Police Department subjected claimant to excessive and unreasonable force during their arrest, which was the proximate cause of the claimant's injuries. Claimants are represented by attorney Kevin Little. This incident does not involve the County of Fresno because federal law enforcement, not Deputy Sheriffs, arrested the claimant.

2 Minors - Claimants each claim \$20,000,000 and allege a hazardous condition of road located at the intersection of McMullin Grade and Manning Avenue resulted in a 2-vehicle accident that resulted in the death of the claimants' mother, which was the proximate cause of the claimants' injuries. Claimants are represented by attorney Todd Walburg. This incident is alleged to have occurred in District 4.

Rebecca Upshaw - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges that a flooded stop sign area near the intersection of N. Crystal and W. Olive avenues Fresno, CA, forced the claimant to travel through a parking lot on their motorized scooter resulting in them being hit by a reversing vehicle, which was the proximate cause of the claimant's injuries. Claimant is represented by attorney Jesse Chrisp. This incident does not involve the county of Fresno because it is alleged to have occurred in the City of Fresno.

Steven Shepard and Valerie Whisenhunt - Claimants each claim in excess of \$35,000 (the jurisdictional amount for limited civil cases) and they allege the Department of Social Services violated state law in wrongfully removing their child and placing them in foster care outside of the County of Fresno for over a year, 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 3.

Ricky Foster - Claimant claims \$200,000 and alleges their ADA approved tennis shoes and glasses were wrongfully confiscated in the jail and his rights to have them were violated, 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 3.

Miguel Garcia - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges they were in a City of Fresno vehicle when it was negligently operated resulting in a two-vehicle accident, which was the proximate cause of the claimant's injuries. Claimant is represented by attorney Juan Angeles. This incident does not involve the County of Fresno because it is alleged to have involved a City of Fresno vehicle.

Onofre Carrillo - Claimant claims \$1,000,000 and alleges while working as an Adult Offender worker they were a passenger in a golf cart when the driver accelerated and they were ejected from their seat, which was the proximate cause of the claimant's injuries. Claimant is represented by attorney Lori Komshian. This incident is alleged to have occurred in District 4.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolution Accepting Late Claims for Damages
On file with Clerk - Resolution Rejecting Late Claim for Damages
On file with Clerk - Resolutions Rejecting Claims for Damages (13)

CAO ANALYST:

Salvador Espino