



Board Agenda Item 39

DATE: June 12, 2018
TO: Board of Supervisors
SUBMITTED BY: Paul Nerland, Director of Human Resources
SUBJECT: Resolutions Rejecting Claims for Damages

RECOMMENDED ACTION(S):

- 1. Approve Resolutions Rejecting Claims for Damages.**
- 2. Approve Resolutions Rejecting Applications for Leave to Present a Late Claim.**

Following the review committee, submitted claims are presented to your Board with a rejection recommendation. If the claim is in the County's jurisdiction, the Summary of Claims denotes the affected supervisorial district.

ALTERNATIVE ACTION:

The Board could choose not to approve the Department of Human Resources' recommendations.

FISCAL IMPACT:

Payment of claims and the cost of defending claims are charged to the Risk Management Internal Services Fund. The Fund is supported by annual budgetary contributions based on actuarial projections.

DISCUSSION:

Your Board has delegated authority to the Department to accept claims for damages in amounts up to \$10,000 and reject claims up to \$5,000. 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 Tort Claims Act by claimants. The Committee consists of Department staff, a Deputy County Counsel and an Independent Legal Counsel.

For claims involving damages over \$5,000, a reserve is established, which is estimated 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 are presented to your Board with a recommendation to reject submitted claims, which places the County in the strongest position to negotiate and/or defend the claim.

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

<u>Claimant No.:</u>	<u>Claimant(s)</u>
9848	Salvador Zuniga
9855	Joshua Bland
9856	Mary Brown
9858	Luis and Jose Hernandez-Garcia and Salvador Hernandez-Garcia

9861	Travis Cuellar
9862	Joshua Rodriguez
9867	Hector Mendez and Ashley Williams
9869	Martin Lopez
9871	Gary, Miceala, Rachel and Zaiha Smith
9874	Bernice Yanez and Issaiah Diaz
9875	Cornelio Jimenez

Applications for Leave to Present a Late Claim for Damages

<u>Claimant No.:</u>	<u>Claimant(s)</u>
9719	AT&T
9855	Joshua Bland
9860	Armida Gonzales

Summary of Claims

Salvador Zuniga - Claims \$200,000 and alleges excessive force by Sheriff's Deputies while incarcerated in the Fresno County Jail, which is the proximate cause of the claimant's injuries. Per the Sheriff's department, the claimant was threatening the nurses and resisting the deputies. A leg sweep was used to regain control of the claimant. Claimant is not represented.

Joshua Bland - Claims \$55,000,000 and alleges fraud, misrepresentation and unlawful imprisonment by the District Attorney's Office, which is the proximate cause of the claimant's injuries. Claimant is not represented.

Mary Brown - Claims within Unlimited Civil Court Limits and alleges negligent maintenance of the sidewalk located at 1430 Chestnut Avenue, which is the proximate cause of the claimant's injuries. The location of this incident is in the City of Fresno and not within the County's jurisdiction. Claimant is represented by Attorney, Gregory Sogoyan.

Luis and Jose Hernandez-Ornelas and Salvador Hernandez-Garcia - Claim within Unlimited Civil Court Limits and allege a hazardous condition of the roadway on Manning and Anchor Avenues contributed to an auto accident on October 21, 2017, which is the proximate cause of the claimants' injuries and damages. Claimants are represented by Attorney, Vy Nguyen. The location of this incident is in District 4.

Travis Cuellar - Claims \$500,000 and alleges excessive force by Sheriff's Deputies while incarcerated in the Fresno County Jail, which is the proximate cause of the claimant's injuries. Claimant is not represented.

Joshua Rodriguez - Claims \$1,000,000 and alleges excessive force by Sheriff's Deputies. The claimant also alleges officer misconduct by several deputies resulted in a broken wrist and nerve damage while being detained, which is the proximate cause of the claimant's injuries. Claimant is not represented. The location of this incident is in District 4.

Hector Mendez and Ashley Williams - Claim within Unlimited Civil Court Limits and allege inadequate training and supervision by Social Services resulted in economic and non-economic damages by removing their children from their custody on October 30, 2017, which is the proximate cause of the claimants' damages. Claimants are represented by Attorney, Jomo Stewart.

Martin Lopez - Claims within Unlimited Civil Court Limits and alleges a City of Fresno bus hit the claimant, which is the proximate cause of the claimant's injuries. This incident did not involve County of Fresno and would be within the purview of the City of Fresno. Claimant is represented by Attorney, Lazaro Salazar.

Gary, Miceala, Rachel and Zaiha Smith - Claim within Unlimited Civil Court Limits and allege wrongful death of their family member while he was incarcerated in the Fresno County Jail and negligent training of jail staff, which is the proximate cause of the claimants' injuries and damages. Claimants are represented by Attorney, Sharon Brunner.

Bernice Yanez and Issaiah Diaz - Claim \$51,000,000 and allege a dangerous condition of the roadway on South Parkway Drive and Cedar Avenue that caused a 2-car collision, which is the proximate cause of the claimants' injuries and damages. The location of this accident is not within the County's jurisdiction. Claimants are represented by Attorney, Todd Reeves.

Cornelio Jimenez - Claims \$20,000 and alleges he was not warned by jail staff that his cellmate had a hot temper and that the other inmate attacked him and broke the claimant's hand, which is the proximate cause of the claimant's injuries. Claimant is not represented.

Summary of Applications for Leave to Present a Late Claim

AT&T - Claims \$2,612.04. This is a Leave to Present a Late Claim for Damages. The claimant alleges a failure to yield on Olive and Hayes Avenue by a Fresno County Sheriff's Sergeant, which is the proximate cause of the claimant's damages. The vehicle collision resulted in damage to the claimant's telephone pole. The claimant alleges the claim was late because it was sent to the wrong address. Claimant is not represented. The location of this incident is in District 1.

Joshua Bland- Claims \$55,000,000 and alleges fraud, misrepresentation and unlawful imprisonment by the District Attorney's Office, which is the proximate cause of the claimant's injuries. The claimant alleges the claim was filed late due to his lack of education on law and his rights. Claimant is not represented.

Armida Gonzales - Claims within Unlimited Civil Court Limits. This is a Leave to Present a Late Claim for Damages. The claimant alleges a dangerous condition of public property and negligent maintenance caused a trip and fall on a sidewalk located near 4949 North Gearhart Avenue, which is the proximate cause of the claimant's injuries. The location of this incident is in the City of Fresno and not within the County's jurisdiction. The claim was filed late due to the mistake, inadvertence, surprise and excusable neglect of the claimant and the attorney. Claimant is represented by Attorney, Steven S. Dias.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolutions (14)

CAO ANALYST:

Juan Lopez