



Board Agenda Item 44

DATE: November 6, 2018

TO: Board of Supervisors

SUBMITTED BY: Kirk Haynes, Chief Probation Officer
Daniel C. Cederborg, County Counsel

SUBJECT: Settlement Agreement with James Davis

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute Settlement Agreement and Release with plaintiff James Davis in connection with James Davis v. County of Fresno, Fresno County Superior Court Case No. 14CECG01490 (two payments totaling \$83,437.91).

ALTERNATIVE ACTION(S):

The Board may elect not to enter into the recommended Settlement Agreement and Release and direct County Counsel to continue the litigation.

FISCAL IMPACT:

Under the recommended Settlement Agreement and Release, the County would pay \$40,000.00 to plaintiff James Davis and \$43,437.91, to Mr. Davis' attorney, Jacob Weisberg. There are sufficient funds for this payment in Probation's FY 2018-19 Adopted Budget Org 34309999, account 7295.

DISCUSSION:

The recommended Settlement Agreement and Release would fully resolve the litigation identified above. In that case, the plaintiff James Davis alleged the County unlawfully terminated his employment, for which he was entitled to reinstatement and back pay, and violated his rights under *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, and the Public Safety Officers Procedural Bill of Rights Act, for which he was entitled to civil penalties, damages, and attorney's fees.

The recommended Settlement Agreement and Release provides that the County will pay \$40,000.00 to the plaintiff and \$43,437.91 to his attorney. In exchange, the plaintiff will cause a request for dismissal of the lawsuit with prejudice. Except as provided above, both parties will bear their own attorney's fees and costs arising from the lawsuit and related matters. Each party releases the other from all claims that arise from or are connected with the events that gave rise to the lawsuit. Neither party admits any liability. If any additional or future legal proceedings are necessary to enforce the recommended Settlement Agreement and Release, the prevailing party in such a proceeding would be entitled to recover its costs, including reasonable attorney's fees. County Counsel and the Probation Department believe settlement is reasonable and in the best interests of the County to avoid further expenditure of staff resources and the costs of litigation.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Settlement Agreement and Release

CAO ANALYST:

Yussel Zalapa