



# Board Agenda Item 44

---

DATE: December 11, 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>     |
|----------------------|------------------------|
| 9637                 | Courtney Colby         |
| 9933                 | Celest Ponce           |
| 9979                 | Norma Aguayo           |
| 9980                 | Robert Littlejohn, Sr. |
| 9985                 | William Tusan          |
| 9987                 | Jaime Loza             |
| 9989                 | Maria Cruz             |
| MM18-0001            | Johnny Quintana, Jr.   |

**Applications for Leave to Present a Late Claim for Damages**

| <u>Claimant No.:</u> | <u>Claimant(s)</u> |
|----------------------|--------------------|
| 9965                 | Floyd Foster, Jr.  |
| 9974                 | Dion Bourdase      |

**Summary of Claims**

Courtney Colby - Claims within Unlimited Civil Court Limits and Indemnity. The claimant alleges the traffic signals at Palm and Gettysburg Avenues were all flashing green lights at the same time that caused a vehicle accident, due to the traffic light malfunction, which is the proximate cause of the claimant's damages. The claimant seeks indemnity from the lawsuit that has arisen from this accident, filed by another individual involved in this incident. Claimant is represented by Attorney, Robert Salley. The location of this incident is in District 2.

Celest Ponce- Claims within Unlimited Civil Court Limits and alleges a Fresno County Sheriff's Deputy failed to yield the right of way at the intersection of Herndon and Weber Avenues, which is the proximate cause of the claimant's injuries and damages. Claimant is represented by Attorney, Jesse Fretwell. The location of this incident is in District 1.

Norma Aguayo - Claims within Unlimited Civil Court Limits and alleges a hazardous condition of the sidewalk at 855 M Street, in front of the IRS building, that resulted in the claimant tripping and falling, which is the proximate cause of the claimant's injuries. Claimant is represented by Attorney, Farid Yaghduhtil. The location of this incident is not within the County's jurisdiction.

Robert Littlejohn, Sr.- Claims within Unlimited Civil Court Limits and alleges a hazardous design of the roadway on Interstate 5, northbound off ramp, near Harris Ranch in Coalinga that caused an accident in which the claimant was injured and his wife died, which is the proximate cause of the claimant's injuries and damages. Claimant is represented by Attorney, Valerie Rose. The location of this incident is not within the County's jurisdiction.

William Tusan - Claims within Unlimited Civil Court Limits and alleges unlawful seizure of his property, including his horses, which is the proximate cause of the claimant's injuries and damages. Claimant is represented by Attorney, Mark Coleman. This incident does not involve the County of Fresno.

Jaime Loza - Claims \$5,000,000 and alleges Fresno County Corrections Officers assaulted the claimant while he was incarcerated in the Fresno County Jail, which is the proximate cause of the claimant's injuries. Claimant is not represented.

Maria Cruz - Claims within Unlimited Civil Court Limits and alleges a Fresno County Sheriff's Deputy rear-ended the claimant's vehicle on Herndon Avenue, East of Golden State Boulevard, which is the proximate cause of the claimant's injuries. Claimant is represented by Attorney, Roger Bonakdar. The

location of this incident is in District 1.

Johnny Quintana, Jr. - Claims \$10,000 and alleges negligent care in the Fresno County Jail. The claimant had multiple leg injuries and the injuries were allegedly not treated properly while in jail, which is the proximate cause of the claimant's injuries. Claimant is not represented. The claim was tendered to California Forensic Medical Group on 10/19/2018.

**Summary of Applications for Leave to Present a Late Claim**

Floyd Foster, Jr. - Claims \$2,300,000. This is a Leave to Present a Late Claim for Damages. The claimant alleges a Fresno County Superior Court failed to lift a parole hold and that Fresno County failed to release the claimant due to the illegal hold resulting in a violation of his rights, which is the proximate cause of the claimant's injuries/damages. The claimant states he filed a late claim because he had filed a claim earlier but it was returned to the claimant with a letter stating it was not properly filed. Claimant is not represented.

Dion Bourdase - Claims \$4,705.84. This is a Leave to Present a Late Claim for Damages. The claimant alleges he has not been paid \$13.39 from his final paycheck as an employee from Social Services, which is the proximate cause of the claimant's damages. The claimant alleges his claim was late because the claim form was misleading and he thought he had a year to file his claim. Claimant is not represented.

**ATTACHMENTS INCLUDED AND/OR ON FILE:**

On file with Clerk - Resolutions (10)

**CAO ANALYST:**

Debbie Paolinelli