



Legislation Details (With Text)

**File #:** 23-0772      **Name:** Resolutions Rejecting Applications for Leave to Present a Late Claim; and Resolutions Rejecting Claims for Damages

**In control:** Human Resources

**On agenda:** 8/22/2023      **Final action:** 8/22/2023

**Enactment date:**      **Enactment #:** Resolution No. 23-270, Resolution No. 23-271, Resolution No. 23-272, Resolution No. 23-273

**Title:** Adopt Resolutions Rejecting Applications for Leave to Present a Late Claim; and adopt Resolutions Rejecting Claims for Damages

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Agenda Item, 2. Resolution No. 23-270, 3. Resolution No. 23-271, 4. Resolution No. 23-272, 5. Resolution No. 23-273, 6. Resolution No. 23-274, 7. Resolution No. 23-275, 8. Resolution No. 23-276, 9. Resolution No. 23-277, 10. Resolution No. 23-278, 11. Resolution No. 23-279

Date	Ver.	Action By	Action	Result
8/22/2023	1	Board of Supervisors	Consent Agenda be approved	Pass

**DATE:** August 22, 2023

**TO:** Board of Supervisors

**SUBMITTED BY:** Hollis Magill, Director of Human Resources

**SUBJECT:** Resolutions Rejecting Leaves to Present a Late Claim and Claims for Damages

RECOMMENDED ACTION(S):

- 1. Adopt Resolutions Rejecting Applications for Leave to Present a Late Claim; and**
- 2. 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. 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.

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

<u>Claim No.:</u>	<u>Claimant(s)</u>
10847	James Tournier
10881	Eileen Quinto and John Quinto

**Claims**

<u>Claim No.:</u>	<u>Claimant(s)</u>
10873	Pedro Navarrete Morales
10875	Noemi Sanchez and Margarito Vidrio
10879	Roberta Cain
10880	Maria Pinonez
10887	Xiangyue Wei and Encheng Yan
10891	Vincent Andrade
10892	Jesse Yang
10894	Anna Coelho and Timothy Evans

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

James Tournier - Claimant claims \$100,000 and alleges Sheriff employees violated the Peace Officer’s Bill of Rights (POBR) during an internal investigation, which was the proximate cause of the claimant’s injuries. Claimant alleges they did not become aware of the POBR violations until December 2022. The claim was submitted 23 months past the date of loss. Claimant is represented by attorney Joshua Olander. This incident is alleged to have occurred in District 3.

Eileen Quinto and John Quinto - Claimant Eileen Quinto claim \$15,000,000 and claimant John Quinto claims \$100,000. Both Claimants allege a hazardous condition of road at the intersection of Marks and Lincoln Aves., resulted in a two-vehicle accident, which was the proximate cause of the claimants’ injuries. Claimants allege excusable neglect and inadvertence as Ms. Quinto was in the hospital for an extended period of time following the collision. The claim was submitted 8 months past the date of loss. Claimants are represented by attorney

Stephen Cornwell. This incident is alleged to have occurred in District 1.

### Summary of Claims

Pedro Navarrete Morales - Claimant claims in excess of \$1,000,000 and alleges a hazardous condition of road on State Route 41 near Dakota Ave. resulted in the claimant driving over a puddle of water and losing control of their vehicle, which was the proximate cause of claimant's injuries. Claimant is represented by attorney Daniel Frydman. This incident does not involve the County of Fresno because it is alleged to have occurred in the jurisdiction of Caltrans.

Noemi Sanchez and Margarito Vidrio - Each claimant claims \$50,000,000 and both claimants allege a hazardous condition of road near Wright St. and Floral Ave. Selma, CA resulted in the death of their daughter who was crossing the intersection and was hit by a vehicle, which was the proximate cause of the claimants' injuries. Claimants are represented by attorney Sean Bina. This incident does not involve the County of Fresno because it is alleged to have occurred in the City of Selma.

Roberta Cain - Claimant claims \$115,000 and alleges while near the Fresno Humane Animal Services building at 5277 E. Airway Blvd. an employee was walking a dog when the dog attacked and bit the claimant, which was the proximate cause of the claimant's injuries. Claimant is represented by attorney Steven Roberts. This incident does not involve the County of Fresno because it is alleged to have involved the City of Fresno controlled and operated Fresno Humane Animal Services.

Maria Pinonez - Claimant claims in excess of \$25,000 (the jurisdictional amount for limited civil cases) and alleges they were riding a FAX bus when the driver operated the bus in an unsafe manner, which was the proximate cause of the claimant's injuries. Claimant is represented by attorney Daniel Geoulla. This incident does not involve the County of Fresno because it is alleged to have involved the City of Fresno.

Xiangyue Wei and Encheng Yan - Each claimant claims in excess of \$10,000,000 and both allege a hazardous condition of road on San Benito Rd. south of Penoché Rd. resulted in a single vehicle accident and the death of their daughter, which was the proximate cause of the claimants' injuries. Claimants are represented by attorney Ping Shen. This incident is alleged to have occurred in District 1.

Vincent Andrade - Claimant claims \$250,000 and alleges a tree had fallen into the roadway near 12906 S. Fowler Selma, CA and they didn't see the tree in time and crashed into it, which was the proximate cause of the claimant's injuries. Claimant is represented by attorney Marielys Acosta. This incident does not involve the County of Fresno because it is alleged to have occurred in the City of Selma.

Jesse Yang - Claimant claims in excess of \$25,000 (the jurisdictional amount for limited civil cases) and alleges the gate to Kearney Park on Eucalyptus Ave. was closed and locked before scheduled closing time and the claimant attempted to scale the fence, which was the proximate cause of the claimant's injuries. Claimant is represented by attorney Patrick Fourchy. This incident is alleged to have occurred in District 1.

Anna Coelho and Timothy Evans - Each claimant claims \$10,000,000 and both allege that a lack of signs or traffic lights at the intersection of Dewey Ave. and Paloma St. resulted in a two-vehicle accident, which was the proximate cause of the claimants' injuries. Claimants are represented by attorney Scott Aval. This incident is alleged to have occurred in District 4.

### ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolutions (10)

CAO ANALYST:

Greg Reinke