



# County of Fresno

Hall of Records, Rm. 301  
2281 Tulare Street  
Fresno, California  
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## Legislation Details (With Text)

**File #:** 18-0123

**On agenda:** 2/20/2018

**Final action:** 2/20/2018

**Enactment date:**

**Enactment #:** Resolution No. 18-061 through Resolution No. 18-068

**Title:** Approve Resolutions Rejecting Claims for Damages

**Attachments:** 1. Agenda Item, 2. Resolution No. 18-061, 3. Resolution No. 18-062, 4. Resolution No. 18-063, 5. Resolution No. 18-064, 6. Resolution No. 18-065, 7. Resolution No. 18-066, 8. Resolution No. 18-067, 9. Resolution No. 18-068

Date	Ver.	Action By	Action	Result
2/20/2018	1	Board of Supervisors	Approved (Consent Agenda)	Pass

**DATE:** February 20, 2018

**TO:** Board of Supervisors

**SUBMITTED BY:** Paul Nerland, Director of Human Resources

**SUBJECT:** Resolutions Rejecting Claims for Damages

### RECOMMENDED ACTION(S):

#### **Approve Resolutions Rejecting Claims for Damages.**

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>
9801	Maria Benitez Perez
9805	Roberto Contreras, Jr.
9808	Mary Johnston
9809	Betty Lee
9812	Tabitha Rathbun
9816	Richard Bernier III and Nadezhda Ustinenkov
9818	Christopher Powers
9819	Herardo Martinez

### Summary of Claims

Maria Benitez Perez - Claims within Unlimited Civil Court Limits and alleges that while she was driving southbound on State Route 145 at California Avenue, a Fresno Economic Opportunities Commission driver failed to yield the right of way and hit the claimant's vehicle, causing bodily injuries, which is the proximate cause of the claimant's injuries/damages. The alleged driver is not a County employee. Claimant is represented by Attorney, David Mamann.

Roberto Contreras, Jr. - Claims within Unlimited Civil Court Limits and alleges excessive force and property damage during an arrest by Sheriff's Deputies, which is the proximate cause of the claimant's bodily injuries/damages. The property damage is for the claimant's vehicle and other items that were allegedly damaged during the claimant's arrest. Claimant is represented by Attorney, Kevin Little.

Mary Johnston - Claims \$90,000 and alleges false accusations of child abuse, which resulted in the claimant's grandchildren being removed from her care, which is the proximate cause of the claimant's injuries. This claim is under the jurisdiction of the Fresno County Superior Court, Juvenile Dependency Division and not within the County's jurisdiction. Claimant is not represented.

Betty Lee - Claims within Unlimited Civil Court Limits and alleges a hazardous condition of the sidewalk on or near 1255 Fulton Mall to 5257 N. Fresno Street, that resulted in a trip and fall, 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, Raymond Ghermezian.

Tabitha Rathbun - Claims within Unlimited Civil Court Limits and alleges a hazardous condition of the roadway on Auberry Road near Frazier Road caused a vehicle accident in which she was a passenger, which is the proximate cause of claimant's injuries. The California Highway Patrol incident report puts the driver of the vehicle she was in at fault for the accident. Claimant is represented by Attorney, Daniel Sheldon. The location of this incident is in District 5.

Richard Bernier III and Nadezhda Ustinenkov - Claims within Unlimited Civil Court Limits and excessive force and the false arrest of Richard Bernier III by Sheriff's Deputies, which is the proximate cause of the claimants' injuries. Nadezhda Ustinenkov is alleging loss of consortium. Claimants are represented by Attorney, Kevin Little.

Christopher Powers - Claims \$100,000 and alleges excessive force by Sheriff's Deputies, which is the proximate cause of the claimant's physical and mental injuries. Claimant is not represented.

Herardo Martinez - Claims \$350,000 and alleges employees from the Public Guardian's Office interfered and destroyed a romantic and personal relationship between the claimant and another adult, which is the proximate cause of the claimant's injuries/damages. Claimant is not represented.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolutions (8)

CAO ANALYST:

Sonia M. De La Rosa