



# County of Fresno

Hall of Records, Rm. 301  
2281 Tulare Street  
Fresno, California  
93721-2198

## Legislation Details (With Text)

**File #:** 18-0773

**On agenda:** 8/7/2018

**Final action:** 8/7/2018

**Enactment date:**

**Enactment #:** Agreement No. 18-420, Agreement No. 18-421, Agreement No. 18-422

**Title:** Approve and authorize Chairman to execute Agreement to Defend Public Officer(s) or Employee(s) for: William Nemoto, Correctional Officer III, David Gutierrez, Correctional Officer IV and John Palacios, Correctional Officer III, as named in United States District Court Eastern District Court of California Case No: 1:15-CV-01200-BAM-(PC), Michael Hernandez Gonzalez v. Mims, et al.

**Attachments:** 1. Agenda Item, 2. Agreement A-18-420 to Defend Public Officer or Employee for Nemoto, 3. Agreement A-18-421 to Defend Public Officer or Employee for Gutierrez, 4. Agreement A-18-422 to Defend Public Officer or Employee for Palacios

Date	Ver.	Action By	Action	Result
8/7/2018	1	Board of Supervisors	Approved as Recommended	Pass

**DATE:** August 7, 2018

**TO:** Board of Supervisors

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

**SUBJECT:** Request to Defend Public Officer(s) or Employee(s)

**RECOMMENDED ACTION(S):**

**Approve and authorize Chairman to execute Agreement to Defend Public Officer(s) or Employee(s) for the employee(s) listed below:**

**Name of Officer(s)/  
Employee(s)**

**Position**

**Title of Action**

William Nemoto

Correctional Officer III  
Sheriff's Department

Michael Hernandez Gonzalez

v

David Gutierrez

Correctional Officer IV  
Sheriff's Department

Mims, et al.

John Palacios

Correctional Officer III  
Sheriff's Department

**Description:**

Claimant alleges he was incorrectly classified by jail staff and placed in a pre-trial holding cell with known gang members where he was attacked and beaten, which is the proximate cause of the claimant's bodily injuries.

**Fresno County Claim No.:** 9701 Eastern District Court Case No.1:15-CV-01200-BAM-(PC)

**Claimant:** Michael Hernandez Gonzalez

ALTERNATIVE ACTION(S):

No alternative action is available as Article 4 (commencing with section 825), Chapter 1, Part 2, Division 3.6 of Title 1 of the Government Code requires the County indemnify its public employees.

FISCAL IMPACT:

Funds to finance the cost of defense are contained in the Risk Management Internal Services Fund. Defense costs are supported by annual budgetary contributions based on actuarial projections.

DISCUSSION:

The California Government Code requires the County to defend its officer(s) and/or employees(s) who are sued because of their actions while in the course and scope of employment. The County may require officer(s) and/or employee(s) to agree that the County's rights under the law are protected.

In the above-mentioned action, the officer(s) and/or employee(s) who have been named in the suit have requested the County to provide legal defense. The necessary agreement to protect the County's rights has been signed by said officer(s) and/or employee(s) and is on file with the Clerk of the Board.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Agreement to Defend Public Officer(s) or Employee(s) for William Nemoto with Exhibit "A" Article 4. Indemnification of Public Employees

On file with Clerk - Agreement to Defend Public Officer(s) or Employee(s) for David Gutierrez with Exhibit "A" Article 4. Indemnification of Public Employees

On file with Clerk - Agreement to Defend Public Officer(s) or Employee(s) for John Palacios with Exhibit "A" Article 4. Indemnification of Public Employees

CAO ANALYST:

Juan Lopez