



Legislation Details (With Text)

File #: 16-1556

On agenda: 12/13/2016

Final action: 12/13/2016

Enactment date:

Enactment #: Resolution No. 16-491 through Resolution No. 16-498

Title: Approve Resolutions Rejecting Claims for Damages; and, approve Resolutions Rejecting Applications for Leave to Present a Late Claim

Attachments: 1. Agenda Item, 2. Resolution-Claim No. 9551, 3. Resolution No. 16-491, 4. Resolution No. 16-492, 5. Resolution No. 16-493, 6. Resolution No. 16-494, 7. Resolution No. 16-495, 8. Resolution No. 16-496, 9. Resolution No. 16-497, 10. Resolution No. 16-498

Date	Ver.	Action By	Action	Result
12/13/2016	1	Board of Supervisors	Approved (Consent Agenda)	Pass

DATE: December 13, 2016

TO: Board of Supervisors

SUBMITTED BY: Paul Nerland, Director of Human Resources

SUBJECT: Approve 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.

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 claims 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>
9551	David and Gretchen Jessen
9552	John Rosenberger
9578	David Hicks
9581	Reyes Garza
9584	Nationwide Insurance as Subrogee for Chris Visser
9589	Interstate Home Services, Inc. and Rigoberto Meza
MM15-0011	Gary Thompson

Applications for Leave to Present a Late Claim for Damages

<u>Claimant No.:</u>	<u>Claimant(s)</u>
9563	Dale Black
MM15-0011	Gary Thompson

Summary of Claims

David and Gretchen Jessen - Claim \$500,000 and allege Fresno County Sheriff's Deputies caused damage to their home. A vagrant broke into the claimant's home, told the Sheriff's Deputies he was armed and would kill anyone who attempted entry, which was the proximate cause of the claimant's damages. During the disposition of their duties to remove the suspect, the Sheriff's Deputies deployed tear gas into several different rooms causing some damage to the house. The claimants amended their original claim and reduced the amount claimed for damages. The claimants' home is located in Fresno County. Claimant is represented by Attorney, Russ Georgeson.

John Rosenberger - Claims \$100,000 and alleges failure to protect by the Fresno County Sheriff's Office while he was in a holding cell awaiting a court hearing. The claimant alleges he was placed in danger with other inmates who had different classifications than his, which was the proximate cause of damages. This individual was not assaulted while in the holding cell at Court. Claimant is not represented. The claimant amended his original claim on October 28, 2016.

David Hicks - Claims \$9,781 and alleges Fresno County Public Administrators lost some of his personal property of the claimant's, which was the proximate cause of damages. The owner of the home passed away on September 22, 2012. The Public Administrator's Office was not assigned the estate until May 19, 2015. The Public Administrator's Office advised Risk Management that there was nothing to inventory in the house as the items had been removed prior to the Public Administrator obtaining the home. Claimant is not represented.

Reyes Garza - Claims \$15,000 and alleges the Fresno County Board of Supervisors sent Sheriff's Detectives to his house, causing him depression and anxiety, which was the proximate cause of damages. It was learned during the investigation of this claim, that the claimant was calling numerous times a day and leaving multiple messages for members of the Board of Supervisors. Some of the messages were very aggressive. Claimant is not represented.

Nationwide Insurance as Subrogee for Chris Visser - Claims \$8,613 and alleges Fresno County failed to maintain trees in front of the claimant's property, which was the proximate cause of damage to his home. The home is located in Fresno County but the County does not own the trees fronting this property. It is the responsibility of the home owner to maintain the trees. Claimants are not represented.

Interstate Home Services, Inc. and Rigoberto Meza - Claim Unlimited Civil and Indemnity by Fresno County. The claimants allege a hazardous condition of the roadway at the intersection of Howard and Belmont Avenues in Fresno County, which was the proximate cause of damages. The claimants were served with a Summons and Complaint regarding an accident that occurred at this intersection on June 26, 2016. The location of this accident is in Fresno County. Claimants are represented by Attorney, Gregory Smith.

Gary Thompson - Claims Unlimited Civil and alleges medical neglect and elder abuse by omission of adequate care

in the Fresno County Jail that caused medical issues, which was the proximate cause of bodily injuries from April 12, 2016 to present. The medical portion of this claim was tendered to Corizon Health, Inc. on October 19, 2016. Claimant is not represented.

Summary of Applications for Leave to Present a Late Claim

Dale Black - Claims \$20,000. This is a Leave to Present a Late Claim for Damages. The claimant alleges he was placed on the top floor in the Fresno County Jail, even though he states that the officers knew that he suffered from a medical condition which could cause him to fall; claimant subsequently fell down a flight of 17 stairs due to this medical condition, which is the proximate cause of bodily injuries. The claimant stated that his claim was timely since he delivered it on time to the jail officials. Claimant is not represented.

Gary Thompson - Claims Unlimited Civil. This is a Leave to Present a Late Claim for Damages for the dates of June 19, 2015 thru April 11, 2016. The claimant alleges medical neglect and elder abuse by omission of adequate care in the Fresno County Jail that caused medical issues, which was the proximate cause of bodily injuries. The claimant believes that this should not be a late claim because it is ongoing. Claimant is not represented.

REFERENCE MATERIAL:

BAI #25, November 1, 2016
BAI #43, September 13, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolutions (9)

CAO ANALYST:

Sonia De La Rosa