



# County of Fresno

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

## Legislation Details (With Text)

**File #:** 18-0924 **Name:** Resolutions Rejecting Claims for Damages

**In control:** Human Resources

**On agenda:** 9/11/2018 **Final action:** 9/11/2018

**Enactment date:** **Enactment #:** Resolution No. 18-294 through Resolution No. 18-312

**Title:** Approve Resolutions Rejecting Claims for Damages; and approve Resolution Rejecting Application for Leave to Present a Late Claim

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Agenda Item, 2. Resolution No. 18-294, 3. Resolution No. 18-295, 4. Resolution No. 18-296, 5. Resolution No. 18-297, 6. Resolution No. 18-298, 7. Resolution No. 18-299, 8. Resolution No. 18-300, 9. Resolution No. 18-301, 10. Resolution No. 18-302, 11. Resolution No. 18-303, 12. Resolution No. 18-304, 13. Resolution No. 18-305, 14. Resolution No. 18-307, 15. Resolution No. 18-308, 16. Resolution No. 18-306, 17. Resolution No. 18-309, 18. Resolution No. 18-310, 19. Resolution No. 18-311, 20. Resolution No. 18-312

Date	Ver.	Action By	Action	Result
9/11/2018	1	Board of Supervisors	Conducted Hearings	Pass

**DATE:** September 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 Resolution Rejecting Application 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>
9814	Timothy Haley
9830	Richard Oh and Valley Soil and Forest Products
9863	MetLife
9877	Eddie Arreola
9882	Stephanie Betancourt
9886	Juan and Anna Herrera
9889	Silvia Gonzalez
9891	Carl Mason
9897	Ernest Brock
9898	Elizabeth Neupauer
9900	Monica and James Stevens
9904	Jayson Zarcone
9905	Albert Loza, Jr.
9906	Roberto Gutierrez
9909	Rosemary Duran
9910	Jason Brooks
9912	Mary Johnston
9916	Oswaldo Rios

#### **Application for Leave to Present a Late Claim for Damages**

<u>Claimant No.:</u>	<u>Claimant(s)</u>
9896	Nedra Kastor

#### **Summary of Claims**

Timothy Haley - Claims \$6,330,800 and alleges property damage of nearly 4,000 trees by the Public Works and Planning Roads division, which is the proximate cause of the claimant's damages. The claimant alleges a fire was started as Fresno County employees were patching potholes in a remote area in Fresno County, near Monterey County. Claimant is represented by Attorney, Cody Phillips. The location of this incident is in District 4.

Richard Oh and Valley Soil and Forest Products- Claim within Unlimited Civil Court Limits and indemnity. The claimants allege a dangerous condition of the roadway on Buttonwillow and South Avenue in Reedley that resulted in an auto accident. The claimants are being sued by the other parties that were involved in the collision, which is the proximate cause of the claimants' damages. Claimants are not represented. The location

of this incident is in District 4.

MetLife - Claims \$837 and alleges a rear-end collision with their insured and a Fresno County employee, Deputy Chief of Investigations from the District Attorney's Office, on Manning Avenue and Golden State Boulevard, which is the proximate cause of the claimant's property damage. Claimant is not represented. The location of this incident is in District 4.

Eddie Arreola - Claims \$100,000 and alleges false imprisonment and assault by jail staff, which is the proximate cause of the claimant's injuries. He alleges that jail staff wrongly accused him of assaulting a jail staff member that resulted in the claimant being remanded to custody. Claimant is not represented.

Stephanie Betancourt - Claims within Unlimited Civil Court Limits and alleges a rear-end collision on Clovis and Kings Canyon Avenues by a Supervising Librarian for Fresno County, which is the proximate cause of the claimant's injuries and damages. The claimant alleges the employee was traveling at an unsafe speed and rear-ended another vehicle causing a 3-car collision. Claimant is represented by Attorney, Nolan Kane. The location of this incident is in District 5.

Juan and Anna Herrera - Claim \$20,000,000 and allege denied medical treatment of their son while incarcerated in the Fresno County Jail, that resulted in his death, which is the proximate cause of the claimants' injuries/damages. The claim was tendered to Corizon Risk Management on June 14, 2018. Claimants are represented by Attorney, Diana Kruze.

Silvia Gonzalez - Claims within Unlimited Civil Court Limits and alleges a dangerous condition of public property near Cantua Elementary and West Clarkson Avenue that resulted in the claimant stepping in an uncovered manhole, which is the proximate cause of the claimant's injuries. The location of this incident is not within the County's jurisdiction. Claimant is not represented.

Carl Mason - Claims \$1,000,000 and alleges negligent and reckless driving by a bus driver on McKinley and Blackstone Avenues, which is the proximate cause of the claimant's injuries. This incident did not involve a County of Fresno employee. Claimant is represented by Attorney, Raymond Ghermezian.

Ernest Brock - Claims within Unlimited Civil Court Limits and alleges Sheriff's Deputies placed the claimant in a jail cell with a deranged inmate who violently attacked the claimant, which is the proximate cause of the claimants' bodily injuries. Claimant is represented by Attorney, Loyst Fletcher.

Elizabeth Neupauer - Claims \$27,552 and alleges a fall while she was riding her scooter at Woodward Park. She alleges she hit a loose plastic bag that caused her to fall, which is the proximate cause of the claimant's injuries. The location of this accident is not within the County's jurisdiction. Claimant is not represented.

Monica and James Stevens - Claim within Unlimited Civil Court Limits and alleges a slip and fall by Monica on a separated area of the sidewalk located on 6609 N. Sierra Vista Avenue, which is the proximate cause of the claimants' injuries. The location of this incident is not on County property. Claimant is represented by Attorney, William Owen.

Jayson Zarcone - Claims \$1,000,000 and alleges the Fresno Irrigation District caused flooding of the claimant's home at 3516 N. Locan Avenue, which is the proximate cause of the claimant's damages. The Fresno Irrigation District is not part of Fresno County. Claimant is represented by Attorney, Jennifer Panicker.

Albert Loza, Jr. - Claims within Unlimited Civil Court Limits and alleges a hazardous condition of the roadway at or near Fresno Street and East White Avenue led to the wrongful death of the claimant's mother, which is the proximate cause of the claimant's injuries. The location of this incident did not occur on a County road. Claimant is represented by Attorney, Harmandeep Kaur.

Roberto Gutierrez - Claims \$11,000 and alleges a Road Equipment Operator Trainee from the Public Works and Planning Roads Division failed to yield the right of way on Piedra Road and SR 180 and hit the claimant's vehicle causing damages and loss of wages, which is the proximate cause of the claimant's damages. Claimant is not represented. The location of this incident is in District 5.

Rosemary Duran - Claims within Unlimited Civil Court Limits and alleges a Fresno City bus driver failed to properly strap and secure the claimant's wheelchair in the bus. When the bus stopped, the claimant fell out of her wheelchair, which is the proximate cause of the claimant's injuries. The City of Fresno, Department of Transportation operates Fresno Area Express and all City busses. Therefore, this is not within the jurisdiction of Fresno County. Claimant is represented by Attorney, Erik Zograbian.

Jason Brooks - Claims \$5,000,000 and alleges a hazardous condition of the roadway at South Bethel and Mountain View Avenues after another vehicle failed to yield the right of way, causing a collision, which is the proximate cause of the claimant's injuries. Claimant is represented by Attorney, James Bergener. The location of this incident is in District 4.

Mary Johnston - Claims \$100,000 and alleges slander by a Deputy County Counsel employee, which is the proximate cause of the claimant's injuries/damages. Claimant is not represented.

Oswaldo Rios - Claims within Unlimited Civil Court Limits and alleges an open sewer maintenance manhole on Grantland Avenue, 1056 feet north of Whitesbridge Avenue, caused a vehicle to hit the open manhole and run his car off the road and overturn, which is the proximate cause of the claimant's injuries/damages. The location of this incident is not within the County's jurisdiction. Claimant is represented by Attorney, Lazaro Salazar.

#### **Summary of Application for Leave to Present a Late Claim**

Nedra Kastor - Claims \$250,000. This is a Leave to Present a Late Claim for Damages. The claimant alleges a Social Worker Supervisor from the Department of Social Services, offered the claimant \$7,000 a month to care for her grandchildren and then lied about it, which is the proximate cause of the claimant's injuries/damages. The claimant alleges the claim was filed late because she did not know about filing a claim for damages until she spoke with an attorney on May 30, 2018. Claimant is not represented.

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

On file with Clerk - Resolutions (19)

#### **CAO ANALYST:**

Juan Lopez