



County of Fresno

Hall of Records, Rm. 301
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Fresno, California
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Legislation Details (With Text)

File #: 19-0055 **Name:** Resolutions Rejecting Claims for Damages

In control: Human Resources

On agenda: 2/12/2019 **Final action:** 2/12/2019

Enactment date: **Enactment #:** Resolution No. 19-030 through Resolution No. 19-044

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. 19-030, 3. Resolution No. 19-031, 4. Resolution No. 19-032, 5. Resolution No. 19-033, 6. Resolution No. 19-034, 7. Resolution No. 19-035, 8. Resolution No. 19-036, 9. Resolution No. 19-037, 10. Resolution No. 19-038, 11. Resolution No. 19-039, 12. Resolution No. 19-040, 13. Resolution No. 19-041, 14. Resolution No. 19-042, 15. Resolution No. 19-043, 16. Resolution No. 19-044

Date	Ver.	Action By	Action	Result
2/12/2019	1	Board of Supervisors	Conducted Hearings	Pass

DATE: February 12, 2019

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 Resolutions Rejecting Applications 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>
9986	Yvette Mottola and Frank Rocha
9988	Alazar Salazar
9992	Clarissa Flores
9996	David Preciado
9997	Carmen Gutierrez
10001	Benny Rivera
10002	Tracey Elliott
10003	Hipolito Fernandez
10005	Saira Ramos-Villegas
10006	Charles Tremain
10009	Tomas Flores
10015	Lynisha Moore, Michael Sessions, Jayin Simpkins, Maliah Eddington, Monica Snowden Harrison, Nathaniel Harrison IV, Nathaniel Harrison V, Andrew Hollins, Natasha and Kezionate Harrison
10018	Napoleon Leal Jr., and A Minor

Applications for Leave to Present a Late Claim for Damages

<u>Claimant No.:</u>	<u>Claimant(s)</u>
9973	Gary Smith
10007	Michael Flowers

Summary of Claims

Yvette Mottola and Frank Rocha - Claim \$3,000,000. The claimants allege Yvette notified jail staff that she needed a lower bunk bed during her incarceration since she has some instability. She allegedly fell from the top bunk, which is the proximate cause of the claimant's injuries and damages. Claimants are not represented.

Alazar Salazar - Claims \$500,000 and alleges he walked onto the side of the street at 6630 Springfield Avenue in Raisin City, when he fell into a hole in the ground, which is the proximate cause of the claimant's injuries. Claimant is represented by Attorney, Benjamin Drake. The location of this incident is in District 4.

Clarissa Flores - Claims within Unlimited Civil Court Limits and alleges negligent care by Corizon medical staff and Correctional Officers while incarcerated in the Fresno County jail, which is the proximate cause of the

claimant's injuries. This claim was tendered to Corizon on November 30, 2018. Claimant is represented by Attorney, Stuart Chandler.

David Preciado - Claims \$2,000,000 and alleges excessive force by Correctional Officers while incarcerated in the Fresno County jail, which is the proximate cause of the claimant's injuries. Claimant is not represented.

Carmen Gutierrez - Claims \$10,000 and alleges a Fresno County Social Worker rear-ended the claimant on VanNess and Mildreda Avenues, which is the proximate cause of the claimant's injuries and damages. Claimant is not represented. The location of this incident is in District 3.

Benny Rivera - Claims \$250,000 and alleges excessive force by Correctional Officers while incarcerated in the Fresno County jail, which is the proximate cause of the claimant's injuries. Claimant is not represented.

Tracey Elliott - Claims within Unlimited Civil Court Limits and alleges a Fresno County employee failed to yield the right of way on Peach and North Avenues, which is the proximate cause of the claimant's injuries. Claimant is represented by Attorney, Robert Gilmore. The location of this incident is not within the County's jurisdiction. The location of this incident is in District 4.

Hipolito Fernandez - Claims \$10,000 and alleges a Fresno County Social Worker returned a foster child's cell phone to the biological family that resulted in fear that the biological family would harm the foster family, which is the proximate cause of the claimant's injuries and damages. Claimant is not represented.

Saira Ramos-Villegas - Claims within Unlimited Civil Court Limits and alleges a Fresno County Maintenance Janitor rear-ended the claimant on Dakota Avenue and Fifth street and pushed the claimant's vehicle into another car, which was the proximate cause of the claimant's injuries and damages. Claimant is represented by Attorney, Martin Gasperian. The location of this incident is in District 3.

Charles Tremain - Claims \$250,000 and alleges a hazardous condition of the roadway on Palm and Herndon Avenues caused his motorized bicycle to crash, which is the proximate cause of the claimant's injuries. Claimant is represented by Attorney, Timothy Mazzela. The location of this incident is not within the County's jurisdiction. It is in the City of Fresno.

Tomas Flores - Claims within Unlimited Civil Court Limits and alleges a slip and fall on the sidewalk located at Dayton and Polk Avenues, which is the proximate cause of the claimant's injuries. Claimant is represented by Attorney, David Azizi. The location of this incident is not within the County's jurisdiction. It is in the City of Fresno.

Lynisha Moore, Michael Sessions, Jayin Simpkins, Maliah Eddington, Monica Snowden Harrison, Nathaniel Harrison IV, Nathaniel Harrison V, Andrew Hollins, Natasha and Kezionate Harrison - Claim \$24,000,000 and allege removal from family and placed in multiple different foster homes without adequate medical or mental support, physical and emotional abuse by caretakers and wrongful death of a child, which was the proximate cause of the claimants' injuries and damages. Claimants are not represented.

Napoleon Leal, Jr., and A Minor - Claim within Unlimited Civil Court Limits and allege a Fresno County Social Worker changed lanes while driving on First Street near Dakota Avenue causing a collision, which is the proximate cause of the claimants' injuries and damages. Claimants are represented by Attorney, Scott VanWaganan. The location of this incident is in District 2.

Summary of Applications for Leave to Present a Late Claim

Gary Smith - Claims \$5,000,000. This is a Leave to Present a Late Claim for Damages. The claimant alleges a civil rights violation by the Fresno County Public Defender's office that resulted in a judge illegally sentencing the claimant to pay restitution after the Public Defender's office allegedly changed their agree upon deal,

which is the proximate cause of the claimant's damages. The claimant states he filed a late claim due to ignorance. Claimant is not represented.

Michael Flowers- Claims \$250,000. This is a Leave to Present a Late Claim for Damages. The claimant alleges he was involved in a riot in the Fresno County jail and the Correctional Officer's denied him medical care for his injuries, which is the proximate cause of the claimant's injuries. The claimant alleges his claim was late due to the law library being closed and he was placed on lockdown for a couple of days. Claimant is not represented.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolutions (15)

CAO ANALYST:

Debbie Paolinelli