



# Board Agenda Item 37

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DATE: July 9, 2024

TO: Board of Supervisors

SUBMITTED BY: Hollis Magill, Director of Human Resources

SUBJECT: Resolutions Rejecting Claims for Damages and Accepting Application for Leave to Present a Late Claim

RECOMMENDED ACTION(S):

- 1. Adopt Resolutions Rejecting Claims for Damages; and**
- 2. Adopt Resolution Accepting Application for Leave to Present a Late Claim**

There is no increase in Net County Cost associated with the recommended actions. After evaluation by the Claims Review Committee, submitted claims are presented to the Board with recommendations for action. If the claim is in the County's jurisdiction, the Summary of Claims denotes the affected supervisorial district.

ALTERNATIVE ACTION:

For any claim, your Board could choose not to approve the Claims Review Committee's recommendations, and instead direct staff to allow, compromise, settle, or further investigate the claim.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. Payment of claims and the cost of defending claims are charged to the Department's Org 8925, Risk Management Internal Services Fund. The Fund is supported by annual budgetary contributions from County departments based on actuarial projections.

DISCUSSION:

The Board has delegated authority to the Human Resources Director to allow, reject, compromise, or settle claims for damages covered by the County's self-insured program or excess liability insurance in amounts up to \$50,000 pursuant to Chapter 5.02 of the County's Ordinance Code. Similarly, the board has delegated authority to the County Administrative Officer to settle or compromise claims up to the same amount. 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 Claims Act by claimants. The CRC consists of the Human Resources Director, Assistant Director of Human Resources, Risk Management staff, and a Chief Deputy County Counsel.

For all claims, a reserve is established, which is estimated by Risk Management 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 exceeding the authority of the Human Resources Director and the

County Administrative Officer are presented to the Board with a recommendation for action on each claim. Upon rejection of a claim, the claimant has six months to file a lawsuit against the County for damages based on the claim.

The CRC has reviewed the claims that are summarized briefly below, and rejection is recommended for each claim.

**Claims**

<u>Claim No.:</u>	<u>Claimant(s)</u>
11007	Amy Christensen
11042	Patrick and Jean Oh
11073	Duchun Goodwin
11095	Andrew and Melissa Garcia
11111	A Minor
11137	Ryan Fromuth
11149	Susan and Shawno Roberts and A Minor
11150	Jimmy Yang and Joyce Her
11160	Rudy Scaife Jr.
11161	A Minor
11163	A Minor

**Applications for Leave to Present a Late Claim for Damages**

<u>Claim No.:</u>	<u>Claimant(s)</u>
11036	Saul Avila

**Summary of Claims**

Amy Christensen - Claimant claims \$20,000,000 and alleges the Department of Social Services took claimant's son away and have failed to act on police reports, which was the proximate cause of the claimant's injuries. Claimant is not represented by an attorney. This incident is alleged to have occurred in District 3.

Patrick and Jean Oh - Claimants each claim in excess of \$35,000 (the jurisdictional amount for limited civil cases) and they allege that while claimant Patrick Oh worked at the downtown Courthouse the soil and groundwater below the building contained high levels of Benzene and posed a risk to him, which was the proximate cause of his injuries. Claimant Jean Oh alleges loss of consortium due to the alleged injury to claimant Patrick Oh, who is her husband. Claimants are represented by attorney Warren Paboojian. This incident is alleged to have occurred in District 3.

Duchun Goodwin - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges that a crack in the parking lot at Comprehensive Addiction Programs Inc. resulted in a trip and fall, which was the proximate cause of the claimant's injuries. The vendor has a contract with the Department of Behavioral Health. The premises are leased by the vendor and are not owned by the County. Claimant is represented by attorney Kate Jamsheed. This incident is alleged to have occurred in District 1.

Andrew and Melissa Garcia - Claimants each claim in excess of \$35,000 (the jurisdictional amount for limited civil cases) and they allege that poor maintenance of trees near Fowler and DeWoody avenues resulted in a vehicle versus motorcycle accident involving claimant Andrew Garcia, which was the proximate cause of his injuries. Claimant Melissa Garcia alleges loss of consortium due to the alleged injury to claimant Andrew Garcia, who is her husband. Claimants are represented by attorney Joshua Markowitz.

This incident is alleged to have occurred in District 4.

A Minor - Claimant claims \$1,000,000 and alleges their civil and human rights were violated as they were ordered to stay in a patrol vehicle for several hours, which was the proximate cause of the claimant's injuries. Claimant is not represented by an attorney. This incident is alleged to have occurred in District 5.

Ryan Fromuth - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges that the District Attorney's office and his assigned public defender performed inadequate investigations that resulted in a wrongful arrest and detainment, which was the proximate cause of the claimant's injuries. Claimant is not represented by an attorney. This incident is alleged to have occurred in District 3.

Susan and Shawno Roberts and A Minor - Claimants each claim in excess of \$35,000 (the jurisdictional amount for limited civil cases) and they allege Susan Roberts fell in a large, uncovered hole at El Capitan Middle School, which was the proximate cause of the claimant's injuries. Claimant Shawno Roberts alleges loss of consortium due to the injuries to claimant Susan Roberts, who is his wife. Claimant minor alleges emotional distress and bystander liability due to witnessing the injuries to claimant Susan Roberts, who is their mother. Claimants are represented by attorney Anup Mehta. This incident does not involve the County of Fresno because it is alleged to have occurred in the jurisdiction of the Central Unified School District.

Jimmy Yang and Joyce Her - Claimants each claim \$100,000,000 and they allege that while riding on a bus, the driver abruptly applied the brakes without warning resulting in the claimants falling out of their seats, which was the proximate cause of the claimants' injuries. Claimants are represented by law firm Downtown LA Law Group. This incident does not involve the County of Fresno because the County does not own or operate buses.

Rudy Scaife Jr. - Claimant claims \$1,000,000 and alleges they fell into a deep hole at or near 557 5th St., Orange Cove, CA, which was the proximate cause of the claimant's injuries. Claimants are represented by attorney Joe Nazarian. This incident does not involve the County of Fresno because it is alleged to have occurred in the City of Orange Cove.

A Minor - Claimant claims \$2,000,000 and alleges a school security guard at Phoenix Elementary violently pushed and grabbed claimant during their lunch break, which was the proximate cause of the claimant's injuries. Claimant is represented by attorney Mila Afshar. This incident does not involve the County of Fresno because it is alleged to have occurred in the jurisdiction of the Fresno Unified School District.

A Minor - Claimant claims \$100,000,000 and alleges they were sexually assaulted by another student on school grounds, which was the proximate cause of the claimant's injuries. Claimant is represented by law firm Downtown LA Law Group. This incident does not involve the County of Fresno because it is alleged to have occurred in the jurisdiction of the Clovis Unified School District.

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

Saul Avila - Claimant claims in excess of \$35,000 (the jurisdictional amount for limited civil cases) and alleges their vehicle was rear ended by a Sheriff Deputy while claimant's father was driving, which was the proximate cause of the claimant's damages. The claimant is the owner of the vehicle and alleges he believed his father could submit a Claim for Damages resulting from the incident. The father's claim was submitted timely. The CRC recommends that this late claim application be granted under Government Code section 911.6, subdivision (b)(1), because "the failure to present the claim was through mistake, inadvertence, surprise or excusable neglect." Claimant is currently represented by attorney Vernon Reynolds, but was not represented by legal counsel during the period he failed to file a timely claim. This incident is alleged to have occurred in District 3.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolutions Rejecting Claims for Damages (11)  
On file with Clerk - Resolution Accepting Late Claim for Damages

CAO ANALYST:

Salvador Espino