



# CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Request to Join in Amicus Brief in the case of Cornette v. Department of Transportation, California Supreme Court No. S089010.

**MEETING DATE:** November 1, 2000

**PREPARED BY:** Randall A. Hays, City Attorney

**RECOMMENDATION:** The City join the Amicus Brief in the case of Cornette v. Department of Transportation.

**BACKGROUND:** Amicus Briefs are filed in various actions, which involves matters of wide-ranging concern to provide information and additional argument to the Court in order to assist the Court in understanding all of the issues and arrive at a conclusion.

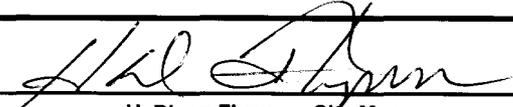
This case involves an automobile accident on a state highway. Under the California Tort Claims Act, Caltrans when sued sought to invoke the design immunity defense, which is contained in California Government Code §830.6. As has been the law for some time, the trial court itself dealt with the design immunity defense not allowing a jury to hear that issue. The trial court found in favor of Caltrans relative to the application of the design immunity defense, thereby rendering a verdict adverse to the plaintiff. The Appellate Court found however that whether or not the elements of design immunity were present and therefore applied was something that should have been heard by a jury. The California Supreme Court has granted review of this case. Until the Cornette case, courts held that whether the plan or design remained reasonable, despite changed conditions, was decided by the Court not a jury under the substantial evidence standard. This case puts that precedent in question. Since a decision by the Supreme Court that upholds the Appellate case would alter the manner in which the question of design immunity is dealt with in the legal system, this case is quite important. Design immunity is a powerful tool for ending dangerous condition cases before they reach the level of being heard by a jury.

**FUNDING:** Not applicable.

Respectfully submitted,

  
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Randall A. Hays, City Attorney

APPROVED:

  
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H. Dixon Flynn -- City Manager