



## CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Request to Join in Amicus Brief in the case of Chavez v. Martinez, U.S. Supreme Court No. 01-1444.

**MEETING DATE:** August 21, 2002

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

**RECOMMENDATION:** That the City join the Amicus Brief in the case of Chavez v. Martinez.

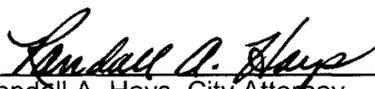
**BACKGROUND:** Amicus Briefs are filed in various actions, which involves matters of wide-ranging concern to provide information and additional argument to the Court in order to assist the Court in understanding all of the issues and arrive at a conclusion.

This case involves the expansion of a liability for cities by finding liability on a city by virtue of a civil rights action where it was found that an emergency room interrogation of Martinez violated his Fifth and Fourteenth Amendment Rights. The District Court's opinion was affirmed by the 9<sup>th</sup> Circuit Court of Appeals. The United State Supreme Court has granted review.

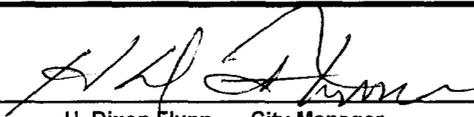
The 9<sup>th</sup> Circuit's opinion expands cities liability in two important respects. First, the United States Supreme Court has explicitly stated that a Fifth Amendment violation can only occur in a trial setting. Nevertheless Martinez holds that the very act of coercion during interrogation triggers liability even if the statement is never used against the defendant. As you know coerced confessions or statements are routinely excluded from a trial setting because such coercion violates what is called the Miranda Rights. Secondly, since the 5<sup>th</sup> amendment is only a trial right, the remedy for its violation is the exclusion as previously mentioned of an illegally obtained statements from court, not payment of monetary damages. However, in this matter the 9<sup>th</sup> Circuit establishes a novel civil remedy for violation of either the 5<sup>th</sup> or 14<sup>th</sup> amendments. Under Chavez an interrogation subject need not suffer any legal, physical or mental harm to successfully sue a city under §1983 of the Civil Rights Act. Even a mere technical violation of Miranda may now result in a substantial damage award. Clearly a finding of this breadth could result in expanded liabilities on cities.

Funding: Not applicable.

Respectfully submitted,

  
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Randall A. Hays, City Attorney

APPROVED: \_\_\_\_\_

  
H. Dixon Flynn -- City Manager