

CONFIDENTIAL CLOSED SESSION**STAFF REPORT**

DATE: OCTOBER 6, 2022

TO: EL DORADO COUNTY TRANSPORTATION COMMISSION

FROM: WOODROW DELORIA, EXECUTIVE DIRECTOR
DEEANNE GILLICK, GENERAL COUNSEL

SUBJECT: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, GOVERNMENT CODE SECTION 54956.9 SUBDIVISION (d) (1) BURGHARDT V. KNAPP, ET AL. EL DORADO SUPERIOR COURT CASE NO. 22CV0685

ACTION

Receive information and provide direction regarding the defense of the above referenced lawsuit.

BACKGROUND

On October 22, 2021, El Dorado County Transportation Commission (EDCTC) received two Tort Claims (Attachment A), one each from Jeffrey M. Burghardt and Melissa J. Burghardt respectively. The claims reference an automotive collision that occurred on May 9, 2021, on eastbound US 50 at the intersection of Still Meadows Road/Apple Café. On November 4, 2021, the Commission rejected the claims.

On September 15, 2022, the EDCTC Executive Assistant/Secretary to the Commission was served with a Summons and Complaint (Attachment B) which alleged a dangerous condition of public property action against the EDCTC related to the May 9, 2021, accident. Defendants include the driver involved in the accident, EDCTC, Caltrans, the County of El Dorado, and the City of Placerville. No details related to the accident, nor the extent of plaintiff's injuries are alleged in the complaint.

DISCUSSION

EDCTC's General Counsel DeeAnne Gillick of Sloan Sakai will provide an initial assessment of the lawsuit in closed session. The EDCTC does not "own, maintain, or control" the roadways in which the accident occurred and therefore is not a proper party to a dangerous condition of public property lawsuit. Counsel will file a Demurrer motion that the lawsuit against the EDCTC is not proper and diligently defend the lawsuit. In addition, the lawsuit has been provided to the EDCTC's insurance provider; however, it is not anticipated that there is insurance coverage for this matter.

Approved for Agenda:



Woodrow Deloria
Executive Director



DeeAnne Gillick
General Counsel

Attachment A: Government Claims, Jefferey M. Burghardt and Melissa J. Burghardt
Attachment B: Complaint Burghardt v. Knapp et al.