



CITY COUNCIL AGENDA REPORT



DEPARTMENT: City Clerk

MEETING DATE: February 12, 2002

PREPARED BY: Linda B Proctor, CMC, City Clerk

AGENDA LOCATION: I-2

TITLE: Oral Report by City Attorney Michael G. Colantuono; Amicus Brief in Eastburn v Regional Fire Protection, 4th District, Division 2, No 2 Civil E029463

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January 7, 2002

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Michael G. Colantuono
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555 W 5th St., 30th Fl
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Re Request for Participation in Amicus Brief
Eastburn v. Regional Fire Protection Authority
4th District, Division 2, No. 2 Civil E029463

Dear Mr. Colantuono:

I write to ask your city to join in the *Eastburn* amicus brief.

The League of California Cities has requested our firm to prepare the brief.

The League does not submit amicus briefs in its own name. Instead, it encourages individual cities to lend their names. Therefore, we are requesting all California cities to join as amici.

THE CASE

Minor plaintiff Felicia Eastburn was electrocuted while taking a bath. Her parents called 911. Plaintiffs allege that the 911 dispatcher delayed in sending emergency services to the scene, exacerbating Felicia's injuries. They sue the public entity that provided emergency dispatch services for 911 callers, the Regional Fire Protection Authority, and the City of Victorville for failing to send help earlier.

The trial court sustained the defendants' demurrers without leave to amend. It found that the defendants owed no duty to the plaintiffs. Plaintiffs have appealed.

The case poses these core issues

- By providing 911 emergency dispatch services, does a public entity enter into a "special relationship" with each of its constituents -- creating a duty to provide prompt emergency services in response to 911 calls, and liability if it fails to do so?

Does Health & Safety Code section 1799.107 (which immunizes "emergency personnel" from liability unless they are grossly negligent or act in bad faith) impose a duty on entities that provide 911 dispatch services to respond promptly to 911 calls?

This case will effect the liability of all public entities that provide or participate in 911 dispatch services. Under state law, *all* public entities must provide or participate in 911 systems. An appellate decision for the plaintiffs would therefore expose *every* city to suit by any citizen who believes the response to his 911 call was not fast enough.

REQUEST

It is important to get the cities on board. We want to let the appellate court know that this case effects every city in California -- and that those cities oppose this attempt to expand their liability.

If your city is willing to participate, please complete and return the enclosed authorization to my office. We request that you respond within two weeks of this letter's date.

Thank you.

Very truly yours,

POLLAK, VIDA & FISHER

Daniel P. Barer

DANIEL P. BARER

DPB pb
Enclosure

AUTHORIZATION

To: Daniel P. Barer
Pollak, Vida & Fisher
1801 Century Park East, 26th Floor
Los Angeles, CA 90067

Re. Eastburn Amicus Brief

Please add the City of _____ as party to the League of California Cities' amicus brief in *Eastburn v Regional Fire Protection Authority* (4th District Court of Appeal, Div 2, Case No E 029463)

It is understood that your firm will provide its services without charge

Please provide a copy of the brief: _____ by mail _____ by e-mail.

City of _____

By _____
[Signature]

[Print or type name and title]

Address (only if different from our mailing to you):

E-mail Address _____