

**THE CITY OF OKLAHOMA CITY
OFFICE OF
THE MUNICIPAL COUNSELOR**

Council Agenda
Item No. XI. AB
9/27/2022

TO: Mayor and City Council

FROM: Kenneth Jordan, Municipal Counselor

Enter into executive session on advice of the Municipal Counselor to receive confidential communications from its attorney concerning settlement discussions in the case of *Howard Elmore v. Diego Chavez, and The City of Oklahoma City*, Oklahoma County District Court, Case No. CJ-2021-1763 as authorized by 25 O.S. (2021) §307 (B)(4), because disclosure would seriously impair the ability of the public body to conduct the litigation with settlement discussions in the public interest.

The above referenced case involves a claim by the Plaintiff, who alleges that on September 13, 2020, Defendant Diego Chavez was fleeing from Oklahoma City Police Department Officer Jace Mills northbound on S. May Avenue. The pursuit passed the Plaintiff, who was riding his motorcycle northbound on S. May Avenue, near the intersection of SW 44th Street. As the pursuit neared the intersection of SW 39th Street, Officer Mills attempted to pull in front of Defendant Chavez to end the pursuit. Defendant Chavez hit the rear of Officer Mills vehicle while attempting to get around the Officer Mills; and when he did so, he crossed into the lane of traffic Plaintiff Elmore was rapidly approaching in. Plaintiff Elmore's motorcycle hit Defendant Chavez's vehicle and Plaintiff Elmore was ejected off his motorcycle. Plaintiff's cause of action against the City is based on a theory of negligence on behalf of Officer Mills. Specifically, that Officer Mills was negligent in attempting to stop Defendant Chavez, which led to the Plaintiff being unable to avoid the collision, and that the City owed a duty to ensure the safe ingress and egress of the roadway for the Plaintiff. This case is set for court ordered mediation with David Cole on October 10, 2022. The Plaintiff is being represented by Mark Litton, and the City is being represented by Thomas Lee Tucker and Linda Samuel-Jaha.

It is therefore the recommendation of this office that Council retire into Executive Session to discuss the facts of this case, its merits, the upcoming mediation, and/or appoint a representative to attend.