

APRIL 15, 2021

**CLOSED SESSION REPORT OF FINAL ACTION**

Date of Meeting: *Thursday, April 15, 2021*

Litigation Negotiations

NAME OF ACTION:

**Denise Tiffer v. City of Oakland, Mark S. Borsuk Trust No. 1, Suzanne J. Borsuk Krueger Trust No. 1, Sheila Siegel Trust, Zachary D. Schwartz, O'Connor Family Trust, Zachary D. Schwartz, O'Connor Family Trust, Molly D. Siegel, Kimberley M. Siegel, and DOES 1 - 25**  
**Alameda County Superior Court Case No. RG19017127**

This matter is listed as **Item No. 1(d)** on the Closed Session Agenda:

The council authorized settlement in the amount of **\$100,000**.

This case arose out of incidents occurring on **July 7, 2018**.

**FACTS/ISSUES:**

On July 7, 2018, 67-year old Plaintiff Denise Tiffer tripped on an uneven slab of sidewalk in front of the "Crepe Pan" (formerly Crepevine) restaurant at 4184 Piedmont Avenue. A City tree is near the uneven sidewalk, and Ms. Tiffer and the property-owner defendants claim that tree roots caused the defect.

Ms. Tiffer's foot struck the uplift and she fell, causing her to dislocate and break her right shoulder. She underwent a failed reduction of the dislocation, where her surgeon attempted to manually manipulate the broken arm bone into the shoulder joint, which attempt failed. She then proceeded with a total shoulder replacement, where bones in her shoulder joint were replaced with a plastic socket and metal ball. She received three months of physical therapy and missed approximately four months of work. Plaintiff's medical damages and wage loss total approximately \$110,000.

Plaintiff sued the City and the owners of the property adjacent to the sidewalk claiming that the uneven slab of sidewalk constituted a dangerous condition of public property. She sought reimbursement for medical damages and wage loss and damages for pain and suffering.

In mediation the parties agreed to \$200,000 to resolve the lawsuit. The City and the defendant who are the owners of the property adjacent to the uneven slab of sidewalk each will contribute \$100,000.

Motion Made by: **Councilmember Kalb**

Motion Seconded by: **Councilmember Gallo**

**AYES: Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao and President Fortunato Bas= 8**

**NOES: Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao and President Fortunato Bas=**

**ABSENT: Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao and President Fortunato Bas=**

**ABSTENTIONS: Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao and President Fortunato Bas=**