

QUARTERLY REPORT TO CITY COUNCIL

Relating to:
LITIGATION AND ADMINISTRATIVE MATTERS

August 2020
(Covering All Activity through August 31, 2020)


for: Wynetta Massey
City Attorney/Chief Legal Officer



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LITIGATION SECTION

In this section, the symbol “(IC)” indicates representation by insurance counsel; “(OC)” indicates representation by outside counsel on a contract basis; and “(CC)” indicates that a staff attorney is co-counsel with either outside or insurance counsel. All other litigation matters are handled completely by the City Attorney’s Office staff attorneys. Municipal court appeals have not been included unless they involve significant issues.

DISPOSED CASES

City of Colorado Springs v. Patricia Ann Hubert; Mountain View Electric Association, Inc., a Colorado corporation; The El Paso County Telephone Company, a Colorado corporation; Mark Lowderman, El Paso County Treasurer

El Paso County District Court Case No. 2018CV31092

CLAIM: City seeks condemnation of the Respondent’s property for public purpose.
STATUS: Petition in Condemnation and Notice of Lis Pendens filed May 4, 2018. May 30, 2018 Respondent El Paso County Telephone Company files answer. June 7, 2018 Respondent files motion to dismiss. June 28, 2018 Petitioner files brief in opposition to motion to dismiss. July 5, 2018 Respondent files combined reply in support of motion to dismiss petition in condemnation; request hearing; and motion for leave to conduct discovery. July 16, 2018 Petitioner files brief in opposition to motion for discovery and hearing. July 23, 2018 Respondent files reply in support of request for hearing and motion for leave to conduct discovery. August 30, 2018 Court denies Respondent’s motion to dismiss. September 12, 2018 Respondent files answer to petition in condemnation. October 3, 2018 Petitioners file motion for summary judgment. October 22, 2018 Hubert files Rule 56(f) Motion to extend deadline to respond to motion for summary judgment. October 26, 2018 Court grants Hubert’s motion to extend deadline to response to motion for summary judgment pursuant to Rule 56(f). April 8, 2019 Respondent Hubert files combined response to Petitioner’s motion for partial summary judgement and cross-motion for summary judgment. April 18, 2019 Petitioner files reply in support of motion for partial summary judgment. May 2, 2019 Respondents reply to Petitioner’s response in opposition to respondents cross motion for summary judgment. June 18, 2019 Court grants City’s motion for partial summary judgment and denies respondents cross-motion for summary judgment. December 12, 2019 Court order appointing commission. December 13, 2019 City files notice to set voire dire and initial meeting of commissioners. March 6, 2020 City files fourth status report. April 10, 2020 City files consent to rule and order. April 29, 2020 City files rule and order. May 6, 2020 rule and order filed with exhibits.

(Turner / Edward J. Bleizner of Welborn Sullivan Meck & Tooley, P.C.)

Adryion Lindsey v. Colorado Springs Police Officer Osnan, Colorado Springs Police Department, and Colorado Springs Fire Department

El Paso County District Court Case No. 20CV40

CLAIM: Plaintiff claims personal injury, embarrassment, and loss of enjoyment of life due to Defendants’ actions.

STATUS: March 12, 2020 Colorado Springs Police Department served summons and complaint. March 16, 2020 Colorado Springs Fire Department served summons and complaint. April 2, 2020 City files motion to dismiss. April 29, 2020 Court grants City’s motion to dismiss.

(Turner)

Allen Loggins v. J. Estrada, Colorado Springs Police Department

El Paso County District Court 19CV304

CLAIM: Plaintiff claims negligence, emotional distress, false imprisonment and 5th, 8th, and 14th Amendment violations, alleging Defendant failed to bring a valid legal claim to detain Plaintiff.

STATUS: Summons and Complaint received September 3, 2019. October 28, 2019 City Defendants file motion to dismiss. Response and Reply to motion to dismiss filed. May 18, 2020 Court grants City's motion to dismiss.

(Lamphere)

Isaiah Morello v. Scott Bauder and City of Colorado Springs

El Paso County District Court Case No. 19CV32871

CLAIM: Plaintiff claims damages due to motor vehicle accident.

STATUS: December 18, 2019 summons and complaint received. December 30, 2019 amended complaint. January 8, 2020 City files answer and affirmative defenses. April 15, 2020 Plaintiff files demand for jury trial. **June 17, 2020 City files stipulated motion to dismiss with prejudice. June 17, 2020 Court grants stipulated motion to dismiss.**

(Lamphere)

Christine Russo v. Mountain Metropolitan Transit

El Paso County District Court 19CV282

CLAIM: Plaintiff brings claims of damages alleging it was caused by the negligence of bus driver.

STATUS: Summons and Complaint received September 3, 2019. September 23, 2019 Answer filed. October 18, 2019 Plaintiff files answer and request for Jury. January 17, 2020 Defendant files motion to dismiss for want of prosecution. January 21, 2020 Plaintiff files motion to continue court proceedings and reason for delay. March 17, 2020 Defendant files motion for one week extension to file motion for summary judgment. March 17, 2020 Court grants motion for extension to file motion for summary judgment. March 27, 2020 Defendant files motion for summary judgment. May 5, 2020 Court grants Defendants motion for summary judgment. May 8, 2020 Defendant files motion to restrict Erica Russo and Christine Russo from pursuing any future pro se litigation against defendant and without legal representation. May 29, 2020 Defendant files motion to restrict Plaintiffs from pursuing any future pro se legal representation. **June 3, 2020 Plaintiff files motion for all proceedings and actions null. June 22, 2020 Defendant files response to Plaintiff's motions. July 13, 2020 Court enter judgment in favor of Defendant.**

(Jachimiak Peterson, LLC)

(IC)

Erica Russo v. Mountain Metropolitan Transit

El Paso County District Court 19CV283

CLAIM: Plaintiff brings claims of damages alleging it was caused by the negligence of bus driver.

STATUS: Summons and Complaint received September 3, 2019. September 23, 2019 Answer filed. October 21, 2019 consolidated with 19CV282. March 17, 2020 Defendant files motion for

one week extension to file motion for summary judgment. March 17, 2020 Court grants motion for extension to file motion for summary judgment. March 27, 2020 Defendant files motion for summary judgment. May 5, 2020 Court grants Defendants motion for summary judgment. May 8, 2020 Defendant files motion to restrict Erica Russo and Christine Russo from pursuing any future pro se litigation against defendant and without legal representation. **June 3, 2020 Plaintiff files motion for all proceedings and actions null. June 22, 2020 Defendant files response to Plaintiff's motions. July 13, 2020 Court enter judgment in favor of Defendant.**
(Jachimiak Peterson, LLC)

Smokebrush Foundation, Katherine Tudor and Donald Herbert Goede, III v. City of Colorado Springs and Hudspeth & Associates, Inc.

El Paso County District Court Case No. 2013CV1469

Colorado Court of Appeals 2014CA228

Colorado Supreme Court 2015SC627

CLAIM: Plaintiffs claim that Defendants allowed asbestos, heavy metals and other toxic substances to migrate offsite during demolition of 25 Cimino Drive in a harmful manner and seek claims for relief of strict liability, negligence, trespass, nuisance and negligence *per se*.

STATUS: March 20, 2013 Summons and Complaint served. April 12, 2013 Hearing regarding Motion for Preliminary Injunction concerning condition of property. April 16, 2013 Plaintiffs file Motion for a Temporary Restraining Order ("TRO"). April 18, 2013 Defendant City of Colorado Springs files Motion to Dismiss, amended. April 19, 2013 Defendant Hudspeth files Response to Motion for TRO; Defendant City files Response to Motion for TRO; Defendant Hudspeth files Motion to Stay re: CRS §13-20-803.5(9). May 7, 2013 Plaintiff files Amended Complaint. August 2, 2013 City files motion to dismiss. August 23, 2013 Plaintiffs file response to City's motion to dismiss. September 6, 2013 City files reply to its motion to dismiss. On September 25, 2013, the Court issued an order concluding that there are factual issues that are potentially relevant and ordered that a *Trinity* hearing would be necessary to resolve the issues stated in the motion. A *Trinity* hearing regarding the motion to dismiss was set for November 15, 2013, but was rescheduled to November 20, 2013. December 20, 2013 Court issues order denying City's motion to dismiss and finding that some or all of Plaintiff's damages were caused by the operation of a public building and the maintenance and operation of a gas facility, thereby waiving the City's immunity. January 8, 2014 City files Answer and Affirmative Defenses. February 4, 2014 City files notice of appeal and designation of record on appeal. March 14, 2014 Defendant City files Brief regarding Stay of Case. March 14, 2014 Defendant Hudspeth files Motion for Stay. March 14, 2014 Plaintiffs' file Brief in Partial Opposition to Stay. March 28, 2014 Second Case Management Conference in which Court grants motion to file Amended Answer; Court grants Motion to Stay; Plaintiffs to set Status Conference after receiving Mandate from COA. April 25, 2014 Defendant/Appellant City files Trinity Hearing Exhibits with Trial Court regarding Record on Appeal. May 5, 2014 Trial Court files Certificate of Mailing of Record on Appeal to COA. July 23, 2014: Def/Appellant City files Opening Brief. July 29, 2014, Def/Appellant City files Motion to Supplement Records on Appeal. August 22, 2014 Court gives notice of Filing Supplemental Record. September 26, 2014, Pl/Appellees' file Answer Brief. October 16, 2014 Def/Appellant City files Reply Brief. October 23, 2014 Pl/Appellees' Request Oral Argument. April 28, 2015 Oral argument was held. June 18, 2014 Court of Appeal reverses the district court's order denying the City's motion to dismiss and remand the case back to the district court with instructions to grant the motion. July 29, 2015 Plaintiff files a Petition for Writ of Certiorari in the

Colorado Supreme Court. August 12, 2015 Opposition Brief filed. August 18, 2015 Reply Brief filed. May 31, 2016 Court grants the Petition for Writ and schedules briefs. Opening brief filed July 26, 2016. Colorado Trial Lawyers file Amicus Brief July 26, 2016 in support of Petitioners which is accepted by the Court on August 5, 2016. September 27, 2016 Colorado Municipal League files Amicus Brief in support of Respondent and accepted by the Court October 6, 2016. September 29, 2016 City files Answer Brief and the State of Colorado files Amicus Brief in support of Respondent City of Colorado Springs and was accepted October 12, 2016. Reply brief filed November 21, 2016. Oral argument held on March 9, 2017. Supreme Court issues decision on February 5, 2018 holding wind claims barred by governmental immunity, but reversing Court of Appeals on alleged subsurface trespass, and remands for further proceedings. Stipulated motion to dismiss Hudspeth & Associates with prejudice and order granting on August 27, 2018. **August 10, 2020 lawsuit settled for \$500,000.**
(Lamphere / Rob Zavaglia at Treece Alfrey Musal, P.C.)

NEW CASES

David Adkins v. Gerald Bellow and City of Colorado Springs

United States District Court Case No. 20-cv-1022-KMT

CLAIM: Plaintiff claims his Fourteenth amendment was violated by Officer Bellow.

STATUS: May 25, 2020 Officer Bellow served the summons and complaint. June 3, 2020 City served summons and complaint. June 15, 2020 City files motion to dismiss. June 16, 2020 City files unopposed motion for protective order. July 8, 2020 Court grants motion for protective order. July 20, 2020 Plaintiff files response to City's motion to dismiss. August 3, 2020 City files reply in support of motion to dismiss.

(Stewart)

(OC)

Estate of De'Von Bailey, by and through its personal representatives Delisha Searcy and Greg Bailey v. City of Colorado Springs, Sergeant Alan Van'tland, and Officer Blake Evenson

United States District Court Case No. 20-cv-1600-WJM-KMT

CLAIM: Plaintiff claims excessive force and violation of fourth amendment rights.

STATUS: June 5, 2020 City waived service of summons and complaint. July 28, 2020 Defendants file joint motion to stay proceedings. July 28, 2020 Court grants joint motion to stay proceedings.

(Lamphere/ Vaughan and Demuro))

(OC)

Corey Barnes v. City of Colorado Springs, Carlotta Rivera, Katelyn Burke, and William Watson

United States District Court Case No. 20-cv-1384-RBJ

CLAIM: Plaintiff claims racially-biased policing and unconstitutional searches and seizures.

STATUS: May 21, 2020 City waived service of summons and complaint. July 8, 2020 Plaintiff files motion to serve Defendant Katelyn Burke by substituted service. July 15, 2020 Defendants Rivera, Burke and Watson file motion for extension of time to file responsive pleading. July 15, 2020 Defendants Rivera, Burke and Watson file motion to vacate and reset scheduling conference. July 15, 2020 Court grants motion for extension of time to file responsive pleading. July 15, 2020 City files unopposed motion for extension of time to file response pleading. July 15,

2020 Court grants City's motion for extension of time to file response pleading. July 16, 2020 Plaintiff's file notice of withdrawal of Plaintiff Corey Barnes's motion for substitute service. July 16, 2020 Court grants motion to vacate and reset scheduling conference. July 16, 2020 Court files amended order setting scheduling/planning conference. August 10, 2020 Defendants file motion to dismiss. August 13, 2020 case reassigned to Judge R. Brooke Jackson. August 13, 2020 Court files order denying motion to dismiss.
(Lamphere/ Vaughan and Demuro)

Nathaniel Buchmann v. A. Lloyd, M. Suarez, B. Kelly, and Ingalsbe

United States District Court Case No. 19-cv-3205-KLM

CLAIM: Plaintiff claims excessive force and violation of fourth amendment rights.

STATUS: June 18, 2020 City served summons and complaint. July 9, 2020 City files partial motion to dismiss.

(Turner)

Tracey Bugarin v. John Doe, Mountain Metropolitan Transit, City of Colorado Springs, and RATP Dev USA, Inc.

El Paso County District Court Case No. 20CV31406

CLAIM: Plaintiff claims John Doe was driving in a reckless and negligent manner causing Plaintiff to fall into plexi-glass and a metal pole.

STATUS: August 14, 2020 City served summons and complaint.

Jackie Cole v. Colorado Springs Police Department Records Manager and Amber Holland

El Paso County Court Case No. 20CV195

CLAIM: Plaintiff claims negligence and breach of duty for not providing Plaintiff with a free copy of the police report after he was the victim of a crime.

STATUS: June 23, 2020 City served summons and complaint. June 24, 2020 County files motion to dismiss. July 13, 2020 Plaintiff files response to County's motion to dismiss. July 14, 2020 City files motion to dismiss. July 20, 2020 County files reply in support of County's motion to dismiss. July 21, 2020 Court grants County's motion to dismiss. August 4, 2020 Plaintiff appeals County's motion to dismiss. August 12, 2020 Plaintiff files a motion for an order to show cause. August 17, 2020 Court denies Plaintiff's motion for an order to show cause.

(Lamphere)

Mary Masters v. Colorado Springs Utilities and City of Colorado Springs

El Paso County District Court Case No. 20CV31071

CLAIM: The Plaintiff claims the City failed to maintain its water lines to and around the home which led to flooding.

STATUS: June 12, 2020 City served summons and complaint. June 30, 2020 City files motion for extension of time to file responsive pleading. July 10, 2020 Court grants City's motion for extension of time. July 27, 2020 Utilities files motion to dismiss. July 27, 2020 City files answer to complaint. August 17, 2020 Plaintiff files response to motion to dismiss.

(Turner)

The Newport Co. v. City of Colorado Springs and Colorado Springs City Council

El Paso County District Court Case No. 20CV30954

CLAIM: Plaintiff claims Defendants acted arbitrarily and capriciously in refusing to accept Plaintiff's submission of final plat for development.

STATUS: June 1, 2020 City served summons and complaint. June 22, 2020 City files motion to dismiss. July 30, 2020 Plaintiff files response to motion to dismiss. August 6, 2020 City files reply to Plaintiff's response.

(Stewart)

Kerri and Payge Powell v. Officer Matthew Hood

El Paso County District Court Case No. 20CV31155

CLAIM: Plaintiff claims that Officer Matthew Hood ran a red light causing a traffic collision.

STATUS: July 21, 2020 City served summons and complaint. August 11, 2020 City files motion to dismiss. August 11, 2020 Plaintiff files motion for leave to amend complaint and proposed amended complaint.

(Lamphere)

Lawrence Samuels v. Colorado Springs Police Department

El Paso County District Court Case No. 20CV198

CLAIM: Plaintiff claims negligence and civil rights violation during his arrest on February 15, 2020.

STATUS: July 28, 2020 City served summons and complaint. August 17, 2020 Colorado Springs Police Department files motion to dismiss. August 14, 2020 Plaintiff files motion to add response. August 17, 2020 City files motion to dismiss.

(Stewart)

Michael Sexton v. City of Colorado Springs; Raymond Lingley, in his official and individual capacity; Marvin Forbes, in his official and individual capacity; William Giannini, in his official and individual capacity; Peter Tomitsch, in his official and individual capacity; Scott Wisler, in his official and individual capacity; Tracy Toth, in her official and individual capacity; Roberto Williamson, in his official and individual capacity.

United States District Court Case No. 20-cv-2248-KMT

CLAIM: Plaintiff claims his First Amendment right was violated when he was stopped, detained and arrested for engaging in free speech.

STATUS: August 13, 2020 City waives service of summons and complaint. August 20, 2020 City files entry of appearance. August 20, 2020 City files motion to reschedule initial case deadlines.

(Turner)

City of Colorado Springs v. Monster Fence Company, LLC.

El Paso County District Court Case No. 20CV31444

CLAIM: Plaintiff asserts Defendant was instructed to use caution while digging, and to "pothole and expose" underground utilities to verify their location. Defendant did not "pothole and expose" underground utilities and struck and damaged a gas line.

STATUS: August 13, 2020 City files summons and complaint. August 17, 2020 Defendant is served summons and complaint.

(Stewart)

CURRENT CASES

COUNCIL

(OC)

Leslie Weise v. Colorado Springs, Colorado, a municipality; Andres Pico, in his official and individual capacity; Bill Murray, in his official and individual capacity; Amy Trinidad, in her individual capacity; Wynetta Massey, in her official and individual capacity; Tom Strand, in his official and individual capacity; Helen Collins, in her official and individual capacity; Keith King, in his official and individual capacity; Jill Gaebler, in her official and individual capacity; Larry Bagley, in his official and individual capacity; Don Knight, in his official and individual capacity; Merv Bennett, in his official and individual capacity

United States District Court Case No. 17-cv-02696

CLAIM: Plaintiff claims First Amendment violation of free speech and retaliation; defamation *per se*, *per quod*, and by implication; and intentional infliction of emotional distress.

STATUS: Complaint filed November 13, 2017. Summons issued November 14, 2017. Motion to dismiss filed January 29, 2018. February 20, 2018 Motion to amend complaint filed. May 4, 2018 Court grants amended complaint. May 7, 2018 Amended complaint filed. Defendants file motion to dismiss June 5, 2018. July 10, 2018 Response to motion to dismiss filed. August 7, 2018 Defendants file reply to motion to dismiss. September 30, 2019 Order denying in part and granting in part motion to dismiss. October 31, 2019 Motion to amend / correct / modify amended complaint. November 14, 2019 Amended Complaint filed. November 18, 2019 City files answer to third amended complaint. November 18, 2019 Individual Defendants file partial motion to dismiss third amended complaint. December 9, 2019 Plaintiff files response to defendant's motion to dismiss. January 3, 2020 Individual Defendants file reply in support of partial motion to dismiss third amended complaint.

(Eric Hall at Sparks Wilson, P.C.)

HUMAN RESOURCES

(OC)

Rueben Waterman v. City of Colorado Springs

United States District Court Case No. 2018-cv-1722

CLAIM: Plaintiff makes Age Discrimination in Employment Act claim alleging failure to hire due to age.

STATUS: Summons and Complaint served October 24, 2018. Answer filed November 14, 2018. Scheduling order signed January 2, 2019. Discovery to commence. January 24, 2019 Court issues Protective order on a joint motion filed January 22, 2019. Dispositive motions deadline September 13, 2019. September 4, 2019 Plaintiff files unopposed motion for extension of time to file motion under Rule 702. September 5, 2019 Plaintiff files motion for order to conduct early neutral evaluation. September 6, 2019 Court grants extension for time to file motion and denies motion for early neutral evaluation. September 13, 2019 City files motion for summary judgment. September 17, 2019 Plaintiff files motion for order to provide deposition transcript. September 23, 2019 City files response to motion for order to provide deposition transcript. September 24, 2019 Plaintiff files reply to response to motion for order to provide deposition transcript. September 30,

2019 Plaintiff files motion to exclude City's expert's testimony. October 15, 2019 Court order granting in part and denying in part motion for deposition transcript and extension of time to file a response. October 21, 2019 City files response to motion to exclude City's expert's testimony. October 25, 2019 Plaintiff files motion for reconsideration of the order on motion for order for deposition transcript. November 5, 2019 City files response to motion for reconsideration of the order on motion for order for deposition. Final pretrial conference reset to January 7, 2020. December 2, 2019 Court issues order denying motion to exclude and overrules the objections. December 19, 2019 City files motion for ruling. December 19, 2019 Court denies City's motion for ruling. December 31, 2019 City files proposed pretrial order. January 6, 2020 final pretrial conference set January 7, 2020 is vacated and to be reset after a recommendation on the motion for summary judgment has been entered. April 20, 2020 Recommendation by magistrate judge is that City's motion for summary judgment be granted. **May 29, 2020 Court grants motion for summary judgment, adopts the recommendation, and final judgment is entered. June 12, 2020 City files motion for attorney fees and proposed bill of costs. Bill of costs hearing set for September 22, 2020.**

(Lessig/Frederickson/Fisher Phillips)

MAYOR

VDARE Foundation v. City of Colorado Springs, John Suthers

United States District Court Case No. 18-cv-03305

Tenth Circuit Case No. 20-1162

CLAIM: Plaintiff alleges violation of 42 U.S.C. § 1983 and First Amendment retaliation claim after Defendants issued a public statement regarding VDARE conference.

STATUS: Complaint filed December 21, 2018. Waiver of the service signed January 9, 2019. April 17, 2019 City files motion to dismiss. May 24, 2019 Plaintiff files response to Defendants' motion to dismiss. June 7, 2019 City files reply to Plaintiff response. January 29, 2020 United States Magistrate judge issues order recommending dismissal of federal claims. February 12, 2020 Plaintiff files objection to magistrate judge recommendation. March 4, 2020 City files response to objections to the recommendation of the United States magistrate judge. March 27, 2020 Court files order adopting the recommendation of United States Magistrate Judge. March 30, 2020 final judgment ordered in favor of defendant. April 24, 2020 Plaintiff files notice of appeal. **July 23, 2020 Plaintiff files motion for extension of time to file opening brief. Opening brief due August 14, 2020. August 14, 2020 Plaintiff files opening brief and appendix.**

(Lamphere)

PLANNING AND DEVELOPMENT

Vertical Bridge v. City of Colorado Springs

United States District Court 19-cv-03476

CLAIM: Plaintiff claims the City violated federal law by denying Plaintiff's application to modify an existing tower.

STATUS: December, 10, 2019 summons and complaint received. February 10, 2020 City files answer to summons and complaint. February 25, 2020 parties submit proposed scheduling order. March 3, 2020 Court approves scheduling order.
(Stewart)

POLICE

Candace Aguilera v. City of Colorado Springs, CO; Danielle McClarin; Angie Neives; Roger Vargason; Brett Lacey; and Robert Mitchell

United States District Court Case No. 18-CV-02125

Tenth Circuit Case No. 19-1398

CLAIM: Plaintiff claims Defendants violated her First Amendment and Fourth Amendment rights in regards to a visit to the Green Faith Ministry establishment.

STATUS: Complaint served August 24, 2018. September 24, 2018 Plaintiff files amended complaint. City Defendants file motion to dismiss on October 2, 2018. Response to motion to dismiss filed October 23, 2018. Reply to its motion to dismiss filed. November 2018 Motion to Amend/Correct/Modify complaint filed and subsequent response and reply filed. March 11, 2019 Court strikes Plaintiff's response to Defendants' motions to dismiss and orders Plaintiff to file compliant responses. March 23, 2019 Plaintiff files amended responses to motions to dismiss. April 8, 2019 City Defendants file reply in further support of their motion to dismiss. July 23, 2019 Defendants' motion to dismiss are granted; Final judgment in favor of the City. August 8, 2019 Plaintiff files motion for reconsideration regarding Final Judgment. August 29, 2019 Defendants file response to motion for reconsideration. September 23, 2019 Court denies Plaintiff's motion for reconsideration. October 19, 2019 Plaintiff files Notice of Appeal in the 10th Circuit Court of Appeals. December 04, 2019 Plaintiff Appellant's opening brief filed with the 10th Circuit Court of Appeals. February 4, 2020 Appellee's answer brief filed. February 24, 2020 Appellant's reply brief filed. February 25, 2020 Appellant files motion to file appendix with the reply brief.

(Turner)

Sasha Cronick v. City of Colorado Springs, Christopher Pryor, in his official and individual capacity, Robert McCafferty, in his official and individual capacity, Daniel Lambert, in his official and individual capacity, Michael Inazu, in his official and individual capacity

United States District Court Case No. 20-CV-00457

CLAIM: Plaintiff claims defendants conduct violated her Fourth Amendment rights.

STATUS: February 21, 2020 Plaintiff files complaint. March 20, 2020 City served with summons and complaint. March 31, 2020 City files entry of appearance. May 5, 2020 City files motion for protective order from discovery. May 19, 2020 City files motion to dismiss. **June 12, 2020 Plaintiff files response to motion to dismiss. June 26, 2020 City files reply brief in support of motion to dismiss.**

(Doherty)

Allen Loggins v. City of Colorado Springs Police Department

El Paso County Case No. 19CV255

Colorado Court of Appeals Case No. 19CA1958

CLAIM: Plaintiff claims CSPD wrongly detained him for a parole violation.

STATUS: Summons and Complaint received September 03, 2019. September 24, 2019 City files motion to dismiss. October 08, 2019 plaintiff files response to motion to dismiss. October 15, 2019 City files reply to response to motion to dismiss. October 16, 2019 court grants motion to dismiss. October 25, 2019 plaintiff files notice of appeal. November 6, 2019 Plaintiff files opening brief. November 18, 2019 Plaintiff files second opening brief. November 29, 2019 Court issues order moving docket fee and cost bonds, and striking Plaintiff's opening brief. December 26, 2019 Plaintiff files opening brief. January 22, 2020 Court issues order instructing Plaintiffs to notify court of intent to use December 26 brief or file amended brief.
(Lamphere)

Jeffery Melvin v. City of Colorado Springs, Daniel Patterson, in his individual capacity, and Joshua Archer, in his individual capacity

United States District Court Case No. 20-CV-00991

CLAIM: Plaintiff claims excessive force resulting in death.

STATUS: April 8, 2020 Complaint filed. April 15, 2020 Waivers of service filed for City and Patterson. **June 10, 2020 City files motion to dismiss. June 10, 2020 City files motion for protective order from discovery and to vacate scheduling conference. June 26, 2020 Plaintiff files motion for extension of time to file response to motion to dismiss. July 1, 2020 Plaintiff files amended complaint. July 1, 2020 Plaintiff files response to motion for protective order. July 2, 2020 City files motion for separate trials of individual and municipal liability claims and for protective order from discovery on Plaintiff's municipal liability claims. July 2, 2020 City files motion to reschedule Fed. R. Civ. P. 16(b) scheduling and planning conference. July 6, 2020 Plaintiff files motion for additional time to serve Defendant Joshua Archer. July 7, 2020 Court grants motion to reschedule scheduling and planning conference. July 7, 2020 Court grants Plaintiff's motion for additional time to serve Defendant Joshua Archer. July 7, 2020 City files motion to dismiss amended complaint. July 23, 2020 Plaintiff files response to motion to bifurcate. July 24, 2020 Plaintiff files motion for extension of time to file response to motion to dismiss amended complaint. July 24, 2020 Court grants Plaintiff's motion for extension of time to file response to motion to dismiss amended complaint. August 4, 2020 Plaintiff files response to motion to dismiss.**

(Turner)

Jeffery Wayne Metzler v. City of Colorado Springs, Elizabeth Reid, John Chadbourne, Craig Simpson, and Kevin Clark

United States District Court Case No. 19-CV-00878

Tenth Circuit Case No. 20-1079

CLAIM: Plaintiff claims damages for alleged violation of unlawful seizure and malicious prosecution due to a wrongful arrest.

STATUS: Complaint received March 25, 2019. April 18, 2019 Plaintiff files amended complaint. May 1, 2019 City files motion for protective order from discovery and to vacate scheduling conference. June 10, 2019 City Defendants file motion to dismiss amended complaint and jury demand. June 19, 2019 Court grants City's motion for protective order from discovery and stays the case until ruling on City's motion to dismiss. July 9, 2019 Plaintiff files response to motion to dismiss. July 23, 2019 Defendants file reply to its motion to dismiss. August 9, 2019 Plaintiff files motion to strike exhibits to Defendants' reply in support of its motion to dismiss. February 3, 2020 Court grants City's motion to dismiss and enters final judgment. March 3, 2020

Plaintiff files notice of appeal. April 21, 2020 Plaintiff files motion for extension of time to file opening brief. April 21, 2020 Court grants Plaintiff's motion. Opening brief due on May 18, 2020. May 13, 2020 Plaintiff files second motion for extension of time to file opening brief. May 13, 2020 Court grants Plaintiff's second motion for extension of time to file opening brief. Opening brief now due June 1, 2020. **June 1, 2020 Plaintiff files opening brief and appendix. June 26, 2020 City files motion for extension of time to file response brief. June 26, 2020 Court grants City's motion for extension of time. Answer brief now due on July 15, 2020. July 15, 2020 City files answer brief. August 4, 2020 Plaintiff files motion for extension of time to file reply brief. August 4, 2020 Court grants Plaintiff's motion. Reply brief now due on August 26, 2020. August 14, Plaintiff files second motion for extension of time to file reply brief. August 4, 2020 Court grants Plaintiff's second motion. Reply brief now due on August 19, 2020. August 14, 2020 Plaintiff files motion for extension of time to file reply brief. August 18, 2020 Court grants Plaintiff's motion for extension of time. Plaintiff's reply brief due on August 26, 2020.**

(Doherty)

Rodolfo Rivera, Jr. v. Officer John Granillo / CSPD 3876

United States District Court Case No. 17-CV-01667

Tenth Circuit Case No. 20-1133

CLAIM: Plaintiff claims Defendant violated his 4th and 14th Amendment rights alleging false accusations, excessive force and no probable cause for arrest.

STATUS: Summons served August 30, 2017. September 20, 2017 Motion to dismiss filed by Defendant Granillo. April 24, 2018 Court grants in part and denies in part City's motion to dismiss. May 1, 2018 Plaintiff files motion objecting to order granting in part and denying in part City's motion to dismiss. On May 7, 2018, the Court denies Plaintiff's motion. May 8, 2018 City files answer to complaint. Settlement Conference held May 21, 2018. July 30, 2018 Plaintiff files motion to compel response to interrogatory question, which was denied on July 31st by the Court. March 15, 2019 City Defendant files motion for summary judgment. April 5, 2019 Plaintiff files opposition to Defendant's motion for summary judgment. April 19, 2019 City files reply to response to its motion for summary judgment. March 13, 2020 Court grants motion for summary judgment in favor of defendant. March 13, 2020 court enters final judgment. March 27, 2020 City files proposed bill of costs. April 3, 2020 Plaintiff files appeal. April 15, 2020 City files entry of appearance. May 18, 2020 Plaintiff files opening brief. **June 17, 2020 City files answer brief and appendix. June 29, 2020 Plaintiff files writ of mandamus. July 6, 2020 City files response to Plaintiff's writ of mandamus. July 9, 2020 Plaintiff files motion for extension of time. July 10, 2020 Plaintiff files reply to writ of mandamus. July 20, 2020 Plaintiff files reply brief. July 24, 2020 Court denies motion on writ of mandamus. July 31, 2020 Plaintiff files motion to review District Court's decision regarding costs. August 4, 2020 Court denies Plaintiff's motion regarding costs.**

(Stewart)

Michael Sexton v. Matthew Anderson and City of Colorado Springs

United States District Court Case No. 20-CV-108

CLAIM: Plaintiff alleges excessive force for engaging in his First Amendment Right

STATUS: January 30, 2020 summons and complaint received. February 28, 2020 City files motion for protective order from discovery and vacate scheduling conference. March 8, 2020

Plaintiff files response to motion for protective order. March 12, 2020 Court denies protective order without prejudice. March 30, 2020 City files motion to dismiss. April 6, 2020 City files second motion for protective order. April 10, 2020 Plaintiff files response to motion for protective order. April 15, 2020 Court grants City's second motion for protective order and vacates April 28, 2020 scheduling conference. April 16, 2020 Plaintiff files unopposed motion for extension of time to respond to motion to dismiss. May 6, 2020 Plaintiff files motion for enlargement of page limitations. May 6, 2020 Court grants in part motion for enlargement of page limitations. May 11, 2020 Plaintiff files response to motion to dismiss. May 26, 2020 City files reply to response to motion to dismiss.

(Stewart)

Delbert Sgaggio v. Brett Poole, Roger Cargason, Danielle McClarin, Angie Neives, Brett Lacey, Robert Mitchell, DA Dan May, E.M. Land 4250, Lt. Godsey, Bill Elder, etc.

United States District Court Case No. 19CV1975

CLAIM: Plaintiff claims Defendants violated his 1st, 4th and 5th Amendment rights.

STATUS: July 11, 2019 Summons and Complaint served. August 29, 2019 City Defendants file motion to dismiss. September 19, 2019 Plaintiff files Notice and Motion under FRCP 15(a)(1)(B) to amend complaint. October 10, 2019 Defendants file response to Plaintiff's Motion to amend his complaint. October 17, 2019 Plaintiff moves to strike Motion to Amend complaint. October 21, 2019 Order grants Plaintiff's motion to withdraw Motion to Amend complaint. February 28, 2020 Magistrate Judge issues Recommendation on Defendants' motions to dismiss. March 11, 2020 Plaintiff files objection to Magistrate Judge recommendation. March 25, 2020 Magistrate Judge withdraws recommendation and Plaintiff's amended complaint is filed. April 8, 2020 Defendants file motions to dismiss amended complaint. April 22, 2020 Plaintiff files motion for leave to file second amended complaint. April 22, 2020 Plaintiff files responses to Defendants' motions to dismiss. May 6, 2020 Defendants file replies in support of motions to dismiss. May 12, 2020 Defendants file joint response to Plaintiff's motion for leave to file a second amended complaint. May 26, 2020 Plaintiff files reply to joint response to Plaintiff's motion for leave to file second amended complaint.

(Turner)

Kelvin Tivis v. City of Colorado Springs, Robert Comstock, Ronald Carter, Brian Makofske, Korey Hutchinson, and Unknown Officers

United States District Court Case No. 19CV867

CLAIM: Plaintiff alleges excessive force, unlawful entry, and unlawful seizure among other claims for relief and seeks damages.

STATUS: Summons and Complaint served April 2, 2019. April 23, 2019 City Defendant file motion to dismiss. May 10, 2019 Officer Comstock and Lieutenant Makofske file Answer. May 14, 2019 Plaintiff files response to City's motion to dismiss. May 28, 2019 Defendants file reply in support of their motion to dismiss. May 29, 2019 Court grants joint motion to stay proceedings. March 11, 2020 motion to dismiss granted in part and denied in part. Claims against City dismissed. March 25, 2020 City files answer on behalf of officers'. April 23, 2020 scheduling order entered. **August 24, 2020 parties file joint motion to extend discovery deadline. August 25, 2020 Court grants motion.**

(Lamphere)

Eliezer Manuel Tirado Velez, as surviving heir of Eliezer Tirado-Ortiz v. City of Pueblo, Colorado; City of Colorado Springs, Colorado and Sheriff Bill Elder, Individually, and in his official capacity as an Officer of Colorado Springs Police Department, Police Lt. Howard Black, individually, and in his official capacity as an Officer of Colorado Springs Police Department, Colorado Springs Police Department, John Doe 1, John Doe 3, John 3, John 4, John 5, and John 6

United States District Court Case No. 19-CV-02449

CLAIM: Plaintiff brings Section 1983 claims and seeks compensation for damages.

STATUS: Summons and Complaint served September 10, 2019. October 15, 2019 Plaintiff files response to motion to dismiss. October 29, 2019 City files reply. November 18, 2019 Court grants unopposed motion to stay discovery pending ruling on motions to dismiss.

(Doherty)

Thomas Villanueva v. El Paso County; Bill Elder, Sheriff, El Paso County Sheriff's Office, in his official capacity; The Estate of Micah Flick, Deputy, El Paso County Sheriff's Office, in his individual capacity; Scott Stone, Deputy, El Paso County Sheriff's Office, in his individual capacity; Jacob Abendschan, Sergeant, El Paso County Sheriff's Office, in his official and individual capacities; John Watts, Detective, El Paso County Sheriff's Office, in his individual capacity; Tremaine White, Detective, El Paso County Sheriff's Office, in his individual capacity; Stephanie Criss, Detective, El Paso County Sheriff's Office, in her individual capacity; Michael Boggs, Detective, El Paso County Sheriff's Office, in his individual capacity; The City of Colorado Springs, Colorado, Peter Carey, Chief of Police, Colorado Springs Police Department, in his official capacity; Kevin Miyakusu, Sergeant, Colorado Springs Police Department, in his official and individual capacities; Marcus Yanez, Officer, Colorado Springs Police Department, in his individual capacity; John Reindollar, Investigator, Colorado State Patrol, in his individual capacity; and Chad Hunt, Sergeant, Colorado State Patrol, in his individual capacity,

United States District Court Case No. 19-CV-00295

Tenth Circuit Court of Appeals Case No. 20-1240

CLAIM: Plaintiff brings § 1983 claims of state-created danger and failure to train, along with willful and wanton negligence, vicarious liability and respondeat superior claims due to February 5, 2018 incident.

STATUS: Waiver of Service returned March 10, 2019. April 29, 2019 Defendants file joint motion to dismiss. Plaintiff voluntarily dismisses counts three and four from Complaint. May 20, 2019 Plaintiff files response to joint motion to dismiss. May 29, 2019 Plaintiff files notice of filing an amended complaint and the amended complaint. Amended Complaint filed May 30, 2019. June 18, 2019 Motion to dismiss or alternatively motion for partial dismissal filed by Estate of Micah Flick. June 21, 2019 Reply to response to joint motion to dismiss filed by Defendants. **May 29, 2020 Court grants Defendants' motion to dismiss. May 29, 2020 final judgment enters. June 25, 2020 Plaintiff files notice of appeal. August 10, 2020 Plaintiff files unopposed motion for thirty day extension to file opening brief. August 11, 2020 Court grants Plaintiff's motion for extension of time. Opening brief due September 23, 2020.**

(Turner)

Trevor Young v. Colorado Springs Police Department Officer Dylan Peters

El Paso County District Court Case No. 2019CV32506

CLAIM: Plaintiff claims damages after alleged negligence following a motor vehicle pedestrian accident.

STATUS: Summons and Complaint served November 4, 2019. November 25, 2019 City files answer. January 21, 2020 case management order entered. February 10, 2020 notice of four day jury trial beginning on November 17, 2020. July 10, 2020 **Plaintiff files motion for extension of time to file expert disclosures. July 10, 2020 Court grants motion for extension of time to file expert disclosures.**
(Stewart)

PUBLIC WORKS

Douglas Bruce v. Pikes Peak Regional Building Department; City of Colorado Springs, El Paso County Public Trustee; Does I through V

El Paso County District Court Case 19CV362

Colorado Court of Appeals Case No. 20CA531

CLAIM: Plaintiff files complaint and motion for immediate injunctive relief related to a property located on West Kiowa Street to allow remediation and prevent demolition.

STATUS: Summons, complaint and motion for immediate injunctive relief served November 1, 2019. City files motion to dismiss November 19, 2019. November 20, 2019 PPRBD files motion to dismiss. December 09, 2019 Plaintiff files answer to motion to dismiss. Court files order ordering plaintiff to file amended response. December 11, 2019 Plaintiff files supplement and third request for hearing. January 9, 2020 Plaintiff files response. January 16, 2020 Defendants file reply. February 11, 2020 Court grants defendants' motions to dismiss. February 27, 2020 Plaintiff files motion for reconsideration. March 6, 2020 Defendant Regional Building files response to Plaintiff's motion for reconsideration. March 25, 2020 plaintiff files notice of appeal. **July 21, 2020 Court files notice of filing of record on appeal. Plaintiff's opening brief due September 1, 2020. August 18, 2020 Pikes Peak Regional Building files entry of appearance.**
(Lamphere)

REAL ESTATE SERVICES

City of Colorado Springs, Colorado v. Francisco Serna; Howard Jennings Walters, III; Lidia H. Walters; Thomas S. Mowle, El Paso County Public Trustee; Mark Lowderman, El Paso County Treasurer

El Paso County District Court Case No. 2017CV31927

Colorado Court of Appeals Case No. 2019CA856

CLAIM: City seeks condemnation of the Respondent's property for public purpose.

STATUS: August 7, 2017 City files Petition in Condemnation along with Motion for Immediate Possession and its accompanying Brief. September 8, 2017 Notice of Immediate Possession Hearing held October 20, 2017 at 1:30 p.m. Court grants motion for immediate possession. January 12, 2018 Petitioners file response to Courts order for a proposed case management order regarding how the case should proceed. February 9, 2018 Birddog, LLC files cross-petition to intervene and Serna files answer to petition in condemnation. February 27, 2018 Walters file answer to petition in condemnation. March 27, 2018 Court grants in part Birddog's cross-petition to intervene stating that Birddog has a right to intervene because it claims an interest, but Birddog does not have a right to participate in any proceedings prior to it intervening. April

5, 2018 Court appoints commissioners. April 19, 2018 the Voir Dire and first meeting of commissioners scheduled for July 13, 2018. April 25, 2018 Respondents file motion to withdraw and disburse funds on deposit. Petitioner files brief in partial opposition to motion to withdraw and disburse funds on deposit. July 18, 2018 Court files order regarding Commission and Case Management. July 30, 2018 Parties file joint statement on motion to withdraw and disburse funds on deposit and request Courts' determination. December 11, 2018 Petitioner files motion for summary judgment. January 4, 2019 Court grants Petitioner's motion for summary judgment; Respondent Serna files motion to dismiss Petitioner's motion for summary judgment. January 18, 2019 Respondent Serna files motion to compel a final written offer. January 24, 2019 Petitioner files briefs in opposition to respondent Serna's motion to dismiss Petitioner's motion for summary judgment and motion to compel. February 5, 2019 Court denies motion to dismiss petitioner's motion for summary judgment and issues judgment in City's favor; Court denies motion to compel a final written offer. February 6, 2019 Respondent files motion for reconsideration. March 25, 2019 Court denies motion for reconsideration. May 14, 2019 Francisco Serna files Notice of Appeal. May 17, 2019 Notice of Appeal filed by Ajhalei Snoddy. July 16, 2019 Court accepts pleadings and amends the caption to Petitioner-Appellee City of Colorado Springs v. Respondents-Appellants Francisco Serna and Ajhalei Snoddy. August 19, 2019 City files Answer Brief. **August 20, 2020 Court issues opinion reversing judgment and remanding case.**

(Turner/ Edward J. Bleiszner / Welborn Sullivan Meck & Tooley, P.C.)
(CC)

City of Colorado Springs v. Goetsch Peacock, LLC

El Paso County District Court Case No. 2019CV31979

CLAIM: City seeks condemnation of the Respondent's property for public purpose.

STATUS: Petition in Condemnation and Notice of Lis Pendens filed August 27, 2018.

December 17, 2019 Court grants City immediate possession and orders deposit of \$1,900 into court registry. December 20, 2019 City deposits \$1,900 into court registry. March 18, 2020 City files amended notice of lis pendis. March 18, 2020 City files motion to join Ross Clinger as respondent and for leave to file amended petition in condemnation. April 9, 2020 City files status report. April 9, 2020 Court grants motion to join Ross Clinger as respondent and for leave to file amended petition in condemnation. April 13, 2020 City files second amended notice of lis pendens, amended civil case cover sheet, and amended petition. May 11, 2020 City files affidavit of service on Ross Clinger. **June 1, 2020 Court files delay prevention order. June 23, 2020 City files response to delay prevention order. June 23, 2020 Court grants City until August 2020 to file motion for summary judgment. August 6, 2020 City files motion for summary judgment.**

(Turner)

TRANSIT SERVICES

(CC)

Amalgamated Transit Union, Local 19 v. First Transit, Inc., v. City of Colorado Springs

El Paso County Court Case No. 2007CV1322, appealed to the Colorado Court of Appeals, Case No. 09CA2343;

United States District Court Case No. 10-cv-02002-RPM-MEH;

Case remanded to Denver District Court Case No. 2010CV6127;

Case changed venue to El Paso County Court Case No. 2012CV81

Court of Appeal, Case Number 2013CA001711

Court of Appeals, Case Number 20CA346

CLAIM: Defendant and Third-Party Plaintiff First Transit filed this third-party complaint against the City to enforce the City's alleged contractual obligation to indemnify First Transit for any liability and costs arising from the claim of Plaintiff Amalgamated Transit Union (ATU) Local 19. In 1981, the City, ATU, and the contract operators for the City's transit operations entered into a Section 13(c) Agreement. In 2006, Laidlaw Transit was awarded the contract to operate the City's general fund transit operations, commonly called the "South Facility." In 2007, the assets of Laidlaw were purchased and merged into First Transit, which assumed Laidlaw's contract with the City. In November, 2009, the City notified First Transit of the termination of the South Services Contract due to funding shortfalls and First Transit was ordered to plan the cessation of the South Facility operation accordingly. First Transit then ceased operating the South Facility and terminated all South Facility employees.

STATUS: In January, 2010, ATU asserted to First Transit that First Transit is a party to the Section 13(c) Agreement and is required by the Agreement to apply the South Facility collective bargaining agreement to the Pikes Peak Rural Transportation Authority bus transit operation (referred to as the "North Facility") and all North Facility collective bargaining unit employees or to provide dismissal allowances, thereby burdening First Transit with potential liability. ATU filed suit against First Transit in Colorado State District Court for Denver County, Colorado on July 30, 2010. On August 19, 2010, First Transit filed a Notice of Removal in the U.S. District Court, District of Colorado. On September 13, 2010, First Transit filed a third-party complaint against the City seeking indemnification pursuant to the parties' services agreement and alleging that the City is contractually obligated to assume sole responsibility, indemnify, and compensate First Transit for any and all costs and liability resulting from ATU's claims raised pursuant to the 13(c) Agreement. On November 1, 2010, the City filed a motion to remand to El Paso County District Court. First Transit filed its response to the City's motion to remand on November 23, 2010, and the City replied on December 7, 2010. A hearing on the City's motion to remand was held on January 7, 2011. On February 14, 2012, the Court issued an order granting the City's motion to remand, but remanded the case to the District Court for the City and County of Denver, Colorado. On February 28, 2012, the City filed a motion to dismiss for failure to state a claim for which relief can be granted, C.R.C.P. 12(b)(5) in the District Court for the City and County of Denver, Colorado. On that same date, the District Court for the City and County of Denver, Colorado *sua sponte* issued an order remanding the case to the El Paso County District Court (thereby initiating Case No. 12cv81). On March 1, 2012 ATU filed a motion to reconsider the Court's order of February 28, 2012, to which the City responded in opposition on March 14, 2012, First Transit responded in opposition on March 20, 2012, and ATU replied in support on March 21, 2012 and March 27, 2012. The City re-filed its motion to dismiss in case 12cv81, to which ATU filed a response on March 19, 2012, First Transit filed a response in support on March 20, 2012, and the City replied on March 30, 2012. On March 16, 2012, ATU filed a motion to hold the proceedings in abeyance pending a determination of proper venue, to which the City responded in opposition on March 26, 2012 and ATU replied in support. A motions hearing was held on June 21, 2012. On July 6, 2012, the El Paso County District Court (12cv81) issued an order stating it would take no action regarding the City's motion to dismiss until a judgment was entered in 2007cv1322.

ATU filed 2007cv1322 against the City in El Paso County District Court regarding enforcement of the 13(c) agreement against the City and its contractors. In that case, the El Paso County District Court entered an order on August 25, 2009 entitled Partial Grant and Denial of City's Motion for Summary Judgment, finding the binding interest arbitration provisions of

paragraph 15 of the 13(c) agreement in violation of Colorado law and unconstitutional. ATU appealed that ruling to the Colorado Court of Appeals (09CA2343). On October 21, 2010, the Court of Appeals announced an unpublished opinion affirming the judgment and remanding the case with directions. A trial on remand was held June 11, 2012. On July 24, 2012, the Court in 07cv1322 entered an order finding that the 13(c) agreement was not perpetual and void as a matter of law. 07cv1322 is now closed.

ATU filed a notice of decision on August 28, 2012, notifying the 12cv81 Court that the 07cv1322 Court had entered judgment. October 12, 2012 the Court issued an order denying City's motion to dismiss case 12cv81. On November 8, 2012, the City filed its answer and affirmative defenses to First Transit's third party complaint. May 24, 2013 the Court granted the City and First Transit's stipulation, staying the third party complaint until the claims between ATU and First Transit are resolved. June 17, 2013 ATU and First Transit file separate motions for summary judgment. July 8, 2013 ATU and First Transit file responses in opposition to the opposing party's motions for summary judgment. July 22, 2013 First Transit files reply in support of its motion for summary judgment and ATU files its amended reply in support on July 17, 2013. On July 24, 2013, the Court grants ATU's motion for summary judgment and denies First Transit's motion for summary judgment, requiring ATU and First Transit to proceed to arbitration. August 28, 2013 First Transit files motion for entry of final judgment pursuant to CRCP 54(b) which the Court granted on August 29, 2013. September 19, 2013 First Transit files Notice of Appeal. November 21, 2013 First Transit files opening brief and filed an amended opening brief on December 3, 2013. January 21, 2014 First Transit responds to Court's Show Cause Order. February 28, 2014 Court files order of dismissal as Court determines it lacks jurisdiction over appeal for lack of final appealable judgment. April 11, 2014 First Transit petitions for writ of *certiorari* from the order of dismissal. April 25, 2014 ATU files brief in opposition to petition for *certiorari*. May 2, 2014 First Transit files reply brief in support of petition for writ of *certiorari*. August 25, 2014 First Transit files motion to lift stay on proceedings re third party claims. August 26, 2014 ATU files objection to First Transit's motion to lift stay and the City filed its response in opposition on September 3, 2014. September 10, 2014 First Transit files consolidated reply in support of its motion to lift the stay on proceedings in the third-party claim and response to ATU's motion to condition the order lifting the stay of the third-party claim. October 27, 2014 Court denied First Transit's motion to lift the stay. January 20, 2015 The Colorado Supreme Court denies First Transit's Petition for Writ of *Certiorari*. April 26, 2017 First Transit files motion to amend its third party complaint to assert subrogation claim and to lift stay on proceedings re third party complaint, to which the City responds in opposition on May 17, 2017, and First Transit replies in support on May 26, 2017. June 20, 2017 The Court denies the motion to lift the stay and denies the motion to amend the third party complaint. July 5, 2017 First Transit files a motion to reconsider the Court's order re lift the stay and amend complaint. July 12, 2017 ATU joins First Transit in the motion to reconsider. City files response brief in opposition on July 26, 2017 and First Transit files reply on August 2, 2017. August 7, 2017 Court denies First Transit's motion to reconsider. ATU and First Transit were ordered to proceed to arbitration without further delay. December 20, 2018 Joint motion to dismiss action as to Plaintiff's claims against First Transit, Inc. First Transit files Notice of Settlement, unopposed motion to lift stay as to third party complaint and opposed motion to amend its third party complaint to assert subrogation claim. December 20, 2018 Court files order granting motion to dismiss. January 11, 2019 City files response brief in opposition to First Transit's motion to amend its third party complaint; City files motion for judgment on the pleadings; City files response brief to motion to dismiss action as to

Plaintiff; and City files response brief to motion to lift stay as to the third party complaint. January 17, 2019 First Transit files reply in support of its motion to amend third party complaint. January 31, 2019 First Transit files response to City's motion for judgment on the pleadings. February 8, 2019 City files reply brief in support of motion for judgment on the pleadings. February 14, 2019 City files response brief in Opposition to ATU's motion to join First Transit's motion to lift stay and amend third-party complaint to adopt subrogation claim. February 19, 2019 Court grants dismissal between ATU and First Transit. February 22, 2019 Court grants motion to lift stay and grants First Transit's motion to amend its third party complaint. February 25, 2019 Court denies City's motion for judgment on the pleadings. March 8, 2019 City Defendants files answer and defenses. August 30, 2019 City files subpoena to produce. September 13, 2019 Motion of non-party Amalgamated Transit Union to quash or modify third party subpoena and to obtain a protective order. City files opposition and Amalgamated replies. September 26, 2019 City files response brief in opposition to motion of non-party Amalgamated. Court grants in part and denies in part Amalgamated motion on October 21, 2019. November 4, 2019 First Transit files motion for summary judgment. City files motion for summary judgment. November 18, 2019 First Transit responds to City's motion to quash and for protective order. November 25, 2019 City files reply brief. November 27, 2019 City files motion to compel. December 2, 2019 City files reply brief in opposition to ATU's motion to stay discovery and the City's motion for summary judgment. December 4, 2019 Court denies City's motion to reconsider subpoena to ATU. December 5, 2019 Court denies City's motion to quash deposition. December 9, 2019 City files response to First Transit motion for summary judgment or determination of law. December 9, 2019 City files motion to strike affidavit of Judge Ann Frick. January 7, 2020 Court grants City's motion for summary judgment and denies First Transit's motion for summary judgment. February 21, 2020 First Transit files notice of appeal. March 6, 2020 City files appellee's notice of cross-appeal. May 7, 2020 First Transit's opening brief is due June 18, 2020. **June 18, 2020 First Transit files opening brief. July 23, 2020 City files answer brief. August 18, 2020 Plaintiff files motion for enlargement of time. August 19, 2020 Court grants motion for enlargement of time to file reply brief. Reply brief due September 14, 2020.**

(Doherty/ Eric V. Hall)

UTILITIES

Eugenia Blume v. City of Colorado Springs, and Colorado Springs Utilities

El Paso County District Court Case No. 17CV31243

Colorado Court of Appeals 2017CA2103

Colorado Supreme Court 2018SC903

CLAIM: Plaintiff alleges Colorado Springs Utilities negligently caused flooding and claims damage to property.

STATUS: Summons and Complaint served May 17, 2017. June 7, 2017 City files motion to dismiss, to which the Plaintiff files response in opposition on June 28, 2017 and the City replies on July 6, 2017. August 1, 2017 Court issues order regarding motion to dismiss, requiring the parties to schedule a Trinity hearing to determine the Court's jurisdiction. Trinity Hearing held on November 1, 2017 to determine jurisdictional issue and statutory compliance based on the City's motion to dismiss. On November 3, 2017, the Court entered an order denying the motion to dismiss for statutory compliance and allowing an amended complaint to cure the defect of the additional claimant. November 10, 2017 Plaintiff files amended complaint and jury demand. November 17,

2017 Notice of Appeal filed by the City. February 13, 2018 Electronic record certified to the Colorado Court of Appeals. March 29, 2018 Appellant files Opening Brief. May 4, 2018 Appellant files request for Oral Argument. June 1, 2018 Appellee files answer brief. June 25, 2018 Appellant files reply brief. Oral Argument scheduled for October 30, 2018. November 8, 2018 Opinion issued affirming district court's order denying City's motion to dismiss. December 21, 2018 City files Petition for Writ of Certiorari. January 3, 2019 Respondents file advisory notice that they will not file a brief in opposition although Petition for Writ is opposed. May 4, 2020 petition for writ of certiorari denied. May 6, 2020 Court of Appeals enters mandate. May 20, 2020 Trial to Court enters order to reopen case. Defendants answer or responsive pleading due within 21 days of Court's May 20, 2020 order. **June 10, 2020 City files answer brief. July 23, 2020 Plaintiff files notice of hearing.**

(Doherty)

(OC)

United States of America and The State of Colorado v. City of Colorado Springs, Colorado

United States District Court 16-cv-02745

CLAIM: Plaintiffs allege that the City violated the Clean Water Act and Colorado Water Quality Control Act by failing to comply with the MS4 permit issued by the State under Section 402(b).

STATUS: Complaint filed November 9, 2016. Motions to intervene filed by Pueblo County and Lower Arkansas Valley Water Conservancy District were granted by Court on February 17, 2017. Trial has been segmented by the Court for an initial liability trial addressing three exemplar sites. The first segment of trial expected by Spring or Summer of 2018. April 13, 2018 Trial brief filed by Defendants. Pretrial conference scheduled for May 31, 2018. Trial held September 5, 2018. November 9, 2018 Court issues Findings, Conclusions and Order for Judgment concluding that the City violated NPDES at three locations. December 11, 2018 Court grants stay of litigation until March 8, 2019 and on February 4, 2019 extends the stay for potential settlement negotiations until April 12, 2019. July 24, 2019 Court grants motion to vacate order for submission of stipulated scheduling and discovery order; convert scheduling conference to status conference; and stay litigation until November 22, 2019. August 20, 2019 Status Conference held. November 19, 2019 Motion to extend stay of litigation until February 21, 2020 is granted by the Court. February 11, 2020 Motion to extend stay of litigation until August 20, 2020 is granted by the Court. May 15, 2020 motion to extend stay of litigation until August 20, 2020 is granted by Court. **August 17, 2020 joint motion to extend stay of litigation until November 18, 2020. August 18, 2020 Court grants partial motion for stay. Stay extended to October 30, 2020.**

(Alan J. Gilbert / Bryan Cave, LLP)

ADMINISTRATIVE SECTION

NEW MATTERS

EMPLOYEE V. CITY OF COLORADO SPRINGS, Charge Number CCRD E2000008571 / EEOC 32A-2020-00509

June 16, 2020, Claimant brings charge of alleged race and gender discrimination and retaliation under Title VII of the Civil Rights Act, and discrimination and retaliation under The Americans with Disabilities Act. Responses to Charge and Request for Information was submitted on July 30, 2020. Pending decision.

(McCall)

EMPLOYEE V. CITY OF COLORADO SPRINGS, Charge Number CCRD E2000008950 / EEOC 32A-2020-00598

July 21, 2020, Claimant brings charge of alleged race and gender discrimination and retaliation under Title VII of the Civil Rights Act, and discrimination under The Americans with Disabilities Act. Responses to Charge and Request for Information due September 3, 2020.

(McCall)

CURRENT MATTERS

(OC)

APPLICANT V. CITY OF COLORADO SPRINGS, Charge Number CCRD E2000007719

December 17, 2019 Claimant brings charge of alleged age discrimination and retaliation under the Age Discrimination in Employment Act. Response to Charge filed January 30, 2020. **City received dismissal and notice of rights that was issued on June 3, 2020. The 90 day deadline to file lawsuit is approximately September 6, 2020.**

(Frederickson/Fisher Phillips)

UTILITIES: Water Court Cases

Total Active Application Cases: **7 (4 Diligence cases)**

Application Cases before Water Referee: **6**

<u>Number</u>	<u>Case Name</u>
15CW3019	Blue River (Diligence)
18CW3041	Homestake / Blue River (Diligence)
19CW3052	Augmentation Plan – Wetlands
19CW3053	Augmentation Plan – Ponds
20CW3024	Homestake Conditional Rights (Diligence)
20CW3033	84CW202 Diligence

Application Cases before Water Judge: **1**

<u>Number</u>	<u>Case Name</u>
13CW3077	Green Mountain Reservoir

Total Objector Cases: **16**

Stipulated: **3**
Active: **13**

Active before Water Referee: **10**

Active before Water Judge: **3**

<u>Number</u>	<u>Case Name</u>
12CW176	Climax Molybdenum Company
18CW3076	Upper Arkansas Water Conservancy District
19CW3036	Lower Arkansas Water Management Association

WORKERS COMPENSATION MATTERS OUTSIDE COUNSEL

Active cases:

Municipal – 70
 Utilities – 17
 Memorial - 0

Subrogation cases handled by outside counsel:

Municipal – 0
 Utilities – 0

Subrogation cases handled by City Attorney’s Office:

Municipal – 0
 Utilities – 0

CRIMINAL PROSECUTIONS SECTION

(MUNICIPAL COURT)

	MAY	JUNE	JULY
Cases Docketed for Trial by Court	0	70	101
Cases tried:	0	38	57
Cases handled without trial:	0	32	44
Cases Docketed for Trial by Jury:	0	0	13
Cases tried:	0	0	0
Cases handled without trial:	0	0	13
Cases Handled on Deferred Docket:	0	248	260
Cases Handled at Pretrial:	0	553	957
Cases Handled Instant Pre-Trial:	0	635	548
Mailed Dispositions:	219	119	76
Criminal Arraignments Screened:	0	1450	1451
Jail Docket:	466	243	154
Administrative Hearings:	0	1	0
NPOI:	0	81	43
Good Driver Letters Mailed:	820	762	646
Good Driver Letters Accepted:	578	584	354
 TOTAL MATTERS:	 685	 1729	 2033