

QUARTERLY REPORT TO CITY COUNCIL

Relating to:
LITIGATION AND ADMINISTRATIVE MATTERS

November 2018

(Covering All Activity through November 28, 2018)



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

Chiddix Excavating, Inc., a Colorado Corporation v. Colorado Springs Utilities a subsidiary of City of Colorado Springs; and City of Colorado Springs, a Municipal Corporation

El Paso County District Court Case No. 2014CV34137

United States District Court Case No. 14-cv-0335

United States Court of Appeals Tenth Circuit Case No. 16-1394

CLAIM: Plaintiff, an excavating company, claims after City wrongfully revoked Chiddix’s license and violated Plaintiff’s due process rights, took property without just compensation, deprived Plaintiff of private property among other claims.

STATUS: Summons and Complaint served November 18, 2014. December 9, 2014 City files Answer, Affirmative Defenses and Jury Demand. December 11, 2014 City files notice of Removal to United States District Court. December 19, 2014 El Paso County Court orders Removal and closes case. Settlement Conference scheduled for February 26, 2015. Discovery commences. April 21, 2016 City files Motion for Summary Judgment and Motion to Dismiss. May 27, 2016 Chiddix files brief in opposition to motion for summary judgment. June 24, 2016 Reply to response to motion for summary judgment and motion to dismiss. August 10, 2016 Parties file Motion in Limine. August 11, 2016 Court issues order granting in part and denying in part Defendant’s Motion for Summary Judgment. Trial scheduled August 22-26, 2016. Verdict found in favor of the plaintiff. Final judgment issued. September 9, 2016 Plaintiff files Bill of Costs and Motion for Attorney’s fees. September 19, 2016 Defendants file a motion to stay execution of final judgment and waiver of appeal bond. Plaintiff’s file a motion for prejudgment interest which is responded and replied to. September 26, 2016 Defendants file Notice of Appeal. October 11, 2016 Final Judgment awarded to plaintiff. October 12, 2016 10th Circuit Court orders that the appeal is abated until the district court’s decision on the pending motion to award prejudgment interest. Mediation conference held October 28, 2016. October 14, 2016 replies to Motion for Attorney’s Fees and Prejudgment Interest filed. November 7, 2016 Court orders Plaintiff’s motion for attorney fees and award of prejudgment interest granted. The Defendant’s motion for stay of execution is denied. December 15, 2016 Plaintiff files Writ of Garnishment on all accounts held in the name or on behalf of Colorado Springs Utilities and/or City of Colorado Springs. Defendants file unopposed motion to set supersedeas bond and stay of execution of final judgment upon filing and approval of bond, which was granted December 16, 2016. December 16, 2016 Defendants file Supersedeas Bond. Appellants file brief March 6, 2017. May 10, 2017 Appellee files response brief. Appellant’s reply brief filed June 14, 2017. Oral arguments to be held November 15, 2017. June 12, 2018 Tenth Circuit affirms ruling of district court and is terminated on the merits after oral arguments. Bill of costs filed June 26, 2018. Responses due by City July 10, 2018. July 5, 2018 Mandate issued. July 13, 2018 Chiddix files motion for costs, attorney fees, post judgment interest and entry of judgment. Responses and Reply to motion for cost filed. **Court grants motion for**

fees and costs on appeal on October 18, 2018. Plaintiff files notice regarding satisfaction of judgment on November 2, 2018.

(Lamphere)

City of Colorado Springs v. MDC Colorado, LLC a/k/a Midwest Builders MDC Colorado, LLC.

El Paso County District Court Case No. 2018CV30656

CLAIM: City files case against Defendant for breach of contract and nondisclosure of material facts

STATUS: Complaint filed March 13, 2018. July 20, 2018 City files status report. **October 4, 2018 City files notice of voluntary dismissal.**

(Doherty)

Yabbradah Bn Inyh Ichuresh-Rael v. Tracy Toth

El Paso County District Court Case No. 18C2700

CLAIM: Plaintiff alleges Defendant Officer Toth wrongfully seized his property.

STATUS: Summons and Complaint served September 19, 2018. **On November 15, 2018, Plaintiff failed to appear in court and the case was dismissed.**

(Stewart)

Anthony Lolin Jiminez, Sr. v. Fourth Judicial District Attorney's Office and/or El Paso County and/or City of Colorado Springs and/or Teller County or City of Cripple Creek and/or Other (Administrative capacities)

El Paso County District Court Case No. 2016CV477

Colorado Court of Appeals 2017CA971

CLAIM: Plaintiff files a complaint for negligence among other claims and economic and non-economic injuries for the alleged failure of Defendants to disclose information related to a financial file.

STATUS: Summons and Complaint served January 13, 2017. February 2, 2017 City files motion to dismiss. Plaintiff files response to motions to dismiss. March 19, 2017 Court grants City's motion to dismiss and all other motions to dismiss by defendants and orders that City is entitled to attorney fees and costs. April 3, 2017 City files affidavit of attorney's fees, which was granted by the Court on May 18, 2017. On June 1, 2017, Plaintiff filed a notice of appeal with the Colorado Court Of Appeals. Electronic Record certified. February 23, 2018 Opening brief filed. April 18, 2018 Appellees file joint answer brief. June 13, 2018 Plaintiff filed his reply. **On November 15, 2018, the Court of Appeals issued an opinion uphold the district court's dismissal of Plaintiff's claims against the City and other defendants.**

(Stewart)

Michael Lowery, Pro Se v. City of Colorado Springs

El Paso County District Court Case No. 18CV141

CLAIM: Plaintiff claims that the City has caused a dangerous street due to the lack of physical interferences to regulate speed after canceling planed traffic calming projects and requests remedies.

STATUS: Summons and Complaint served June 19, 2018. City files motion to dismiss and response to Defendant's reply. **October 29, 2018 Court grants City's motion to dismiss.**

(Lamphere)

Luis Antonio Juarez Martinez, individually and as surviving parent of D.J.M., deceased v. Justin Carricato, individually and in his capacity as an officer with the City of Colorado Springs Police Department; The City of Colorado Springs, Colorado; John and Jane Does 1-10; ABC corporations, companies and entities A-J

United States District Court No. 16-cv-00098-KLM

Remanded back to El Paso County District Court 15CV33722

Colorado Court of Appeals 17CA97

CLAIM: Plaintiff claims violation of Colorado Child Protection Act, negligence, Section 1983 claims, among others against Justin Carricato and the City of Colorado Springs.

STATUS: Summons and Complaint served December 29, 2015. Notice of removal to Federal Court was filed on January 15, 2016. January 19, 2016 Defendants file motion to dismiss. Scheduling conference scheduled for April 14, 2016. February 9, 2016 Plaintiff files response to Defendant's motion to dismiss. February 23, 2016 City Defendants file reply to its motion to dismiss. August 30, 2016 Court grants in part Defendants' Motion to Dismiss and Remands case back to El Paso County District Court. October 12, 2016 City Defendants file motion to dismiss. November 2, 2016 Plaintiff files response to Defendants' motion to dismiss. November 9, 2016 City files reply to response to motion to dismiss. December 8, 2016 Court issues Order regarding motion to dismiss and dismissing several claims brought against the Defendants, but denies others from dismissal. December 22, 2016 City Defendants file answer, affirmative defenses and jury demand. January 19, 2017 Plaintiff files Notice of Appeal. May 19, 2017 Appellants file Opening Brief. Answer brief filed July 5, 2017. Per Court Order opening brief and answer brief to be refiled removing minor identification. Answer Brief refiled July 20, 2017, amended Notice of Appeal and Amended Opening Brief refiled July 26, 2017. Reply brief filed August 16, 2017. Appellee files partial motion to strike Appellants Reply Brief and motion to file Sur-Reply. On September 22, 2017 the Court denied the motion to file a sur-reply and deferred the motion striking the reply brief to the division considering the merits of the appeal. Oral Argument scheduled for December 12, 2017. January 11, 2018 Colorado Court of Appeals issues opinion that the CGIA bars the claim against the City for alleged violation of the Child Protection Act because the claim lies or could lie in tort. Additionally, the claim against the City for vicarious liability must be dismissed because public entities do not waive immunity for an employee's willful and wanton conduct. The claims against Carricato must be remanded for a *Trinity* hearing to allow the district court to determine whether the officer's conduct was willful and wanton. March 13, 2018 Court of Appeals issues mandate. **A half day Trinity Hearing scheduled for November 9, 2018. Stipulated motion to dismiss granted November 2, 2018.**

(Lamphere)

Old North End Owners For Enforcement of Master Plan, Inc., a Colorado Not-for-Profit Corporation v. City of Colorado Springs, a Home Rule City, and Kathleen Krager, in her official capacity as Senior City Traffic Engineer

El Paso County District Court Case No. 2018CV30794

CLAIM: Plaintiffs request Temporary Restraining Order and Preliminary Injunction to prevent street and traffic pattern changes in the neighborhood, alleging immediate and irreparable harm.

STATUS: Summons and Complaint for Injunctive Relief served April 10, 2018. Preliminary Injunction hearing is scheduled for May 18, 2018. May 1, 2018 City Defendants file motion to

dismiss and a motion to expedite briefing schedule for Defendant's motion to dismiss. May 3, 2018 Court grants motion to expedite briefing schedule. May 8, 2018 Plaintiffs files response to motion to dismiss. May 18, 2018 Court denies Defendant City's motion to dismiss. Court also denies motion to consolidate preliminary injunction hearing and trial. May 24, 2018 Court grants preliminary injunction. Trial scheduled for July 16, 2018 at 9:00 a.m. June 1, 2018 City files answer and defenses to amended complaint. June 6, 2018 City files motion to amend preliminary injunction or, in the alternative, a motion for relief from order granting preliminary injunction. June 11, 2018 City files Motion for Protective Order. June 18, 2018 Plaintiffs file Response to Motion for Protective Order. July 16 - 18, 2018 A bench trial was held and the district court dissolved the preliminary injunction and denied the Plaintiff's request for a permanent injunction. (Doherty/Stewart)

Save Cheyenne, a Colorado non-profit corporation v. City of Colorado Springs; City Council of the City of Colorado Springs; John W. Suthers, solely in his official capacity as the Mayor of City of Colorado Springs; and Ronn Carlentine or his successor, solely in their official capacity as Real Estate Services Manager of the City of Colorado Springs

El Paso County District Court Case Number 16CV032101

Colorado Court of Appeals Case Number 17CA43

Colorado Supreme Court Case Number 18SC199

CLAIM: Plaintiff alleges that Defendants violated dedication of park use, City Charter, state statute, Colorado Constitution, and zoning code and seek declaratory and injunctive relief.

STATUS: Summons and Complaint served August 8, 2016. Motion to Join Indispensable Parties. September 19, 2016 City Defendants file Motion to Dismiss. A motion to intervene is filed by proposed intervenors Manitou and Pikes Peak Railway Company; COG Land & Development Company; PF, LLC; and Broadmoor Hotel, Inc. Parties file stipulation to join indispensable parties. October 24, 2016 Broadmoor files a motion to dismiss and joinder in the City's motion to dismiss. November 8, 2016 Save Cheyenne files response brief in opposition to the Broadmoor and City of Colorado Springs' motion to dismiss. December 15, 2016 Court grants Defendants Motions to Dismiss, dismissing all claims by Plaintiff. Save Cheyenne files Notice of Appeal on January 5, 2017. Opening Brief filed May 31, 2017. Answer briefs filed July 31, 2017. July 31, 2017 Defendants-Appellees file joint motion to dismiss based on mootness. Additionally, Colorado Municipal League files motion for leave to file Amicus Brief and the Amicus Brief in support of Defendants / Appellees. Appellant files response and supplemental response in opposition to Appellee's motion to dismiss based on mootness. August 31, 2017 Appellant files Reply Brief. September 5, 2017 Appellant files request for Oral Argument. September 8, 2017 Appellees file joint reply in support of their motion to dismiss based on mootness. Oral Argument held January 9, 2018 at 9:30 a.m. February 8, 2018 Court of Appeals affirms district court order dismissing all claims. March 22, 2018 Save Cheyenne files Petition for Writ of Certiorari. April 5, 2018 Respondents file joint brief in opposition to Petition for Certiorari. April 12, 2018 Reply brief in support of Petition for Certiorari filed. **September 24, 2018 Colorado Supreme Court denied Petition for Certiorari. September 28, 2018 Mandate issued and judgment affirmed.** (Turner / Massey)

(OC)

Christopher P. Sweeney and Nikole M. Sweeney v. City of Colorado Springs, Colorado; Stetson Hills Master Home Owners Association, Inc.; and Diversified Property Management, LLC

United States District Court Case No. 18-cv-337

CLAIM: Plaintiffs make Title II ADA claims and Section 504 Rehabilitation Act of 1973 claims alleging inaccessible curb ramps, obstructed sidewalks, and inaccessible bus stops against the City. Additional Fair Housing Act claims against remaining defendants.

STATUS: Summons and Complaint served February 15, 2018. March 8, 2018 City files answer. March 29, 2018 Plaintiff files amended complaint. April 12, 2018 City files answer to amended complaint. Final pretrial conference set for April 9, 2019. August 2, 2018 Plaintiffs file stipulated motion for protective order, which was granted on August 6, 2018. Mediation scheduled August 31, 2018. **Stipulation to dismiss City of Colorado Springs filed September 21, 2018 and granted October 24, 2018. Settlement amount \$19,000.**

(Rose/Lessig)

(OC)

WildEarth Guardians v. Colorado Springs Utilities, Colorado Springs Utilities Board and the City of Colorado Springs

United States District Court Case No. 17CV357

CLAIM: Plaintiff claims violations of the Clean Air Act by failing to continuously monitor the opacity of the Martin Drake Power Plant

STATUS: Complaint filed on February 9, 2017. Waiver of service filed on February 21, 2017. Defendant filed its initial Rule 26 disclosures on April 21 and the Plaintiff filed on April 26, 2017. A signed Scheduling Order outlining all deadlines in the case was filed on April 27, 2017 by the US Magistrate Judge. The next pretrial conference was set for December 11, 2017. On September 26, 2017, Defendants filed their Motion for Summary Judgment and the Plaintiff filed its Motion for Partial Summary Judgment. The ruling on these motions is pending, along with the response and reply to the summary judgment motions. Discovery cutoff was December 1, 2017. On January 8, 2018, the Court denied Defendants' Motion for Summary Judgment as well as denying Plaintiff's Motion for Partial Summary Judgment. On March 15, 2018, the parties filed a Notice of Settlement, notifying the Court that they had reached a settlement in principle. The final settlement documents were approved by City Council on April 10, 2018. On April 17, 2018, the parties signed a Settlement Agreement, and at the same time filed a Notice of Lodging of Consent Decree, at which time a 45-day review and comment period began. The Department of Justice notified the Clerk of Court on June 13, 2018 that it did not object to the entry of the proposed consent decree, paving the way for Judge Arguello to sign the Consent Decree. However, on May 9, 2018, former standing declarants filed a Notice of Opposition to the Consent Decree. On June 6, 2018, WildEarth Guardians ("WEG") filed a Response to the Notice of Opposition (supporting the settlement). WEG also replaced the former declarants. The former standing declarants, then filed a motion Response to Plaintiff's Response to Opposition to Settlement. In another bid to support the settlement, Utilities and WEG filed a Joint Motion to Enter Consent Decree on June 18, 2018. **The Judge signed the Consent Decree on September 6, 2018, finalizing the case. Utilities has complied with current settlement obligations, among which are paying a first installment to the Energy Resource Center (for a supplemental environmental project) and paying a portion of Plaintiff's attorneys fees. A new continuous opacity monitor has been installed on Drake Unit 7, and by year end, should receive its recertification by the state. Utilities plans to install the Unit 6 monitor during 2019's spring outage. Settlement obligations will be ongoing.**

(Deminski/ Colin Deihl of Polsinelli, PC)

Zook, David H. and Dale Street Bistro Café, LLC v. Colorado Springs Utilities and City of Colorado Springs

El Paso County Court Case No. 15C1061

El Paso District Court Case No. 17CV0422

Colorado Supreme Court Case No. 18SC256

CLAIM: Plaintiff brings claim for alleged damage due to a CSU main sewer backup.

STATUS: Complaint and Summons served September 4, 2015. September 23, 2015 Defendants file motion to dismiss. October 13, 2015 Plaintiff files response to Defendants motion to dismiss. October 20, 2015 City Defendants files reply in support of its motion to dismiss. December 1, 2015 Court issues order denying motion to dismiss. December 15, 2015 City files Answer under simplified procedure. Mediation scheduled March 21, 2017. Trial scheduled for August 14, 2017. August 7, 2017 Defendants file Trial Brief. August 11, 2017 Case reassigned to Div. H. August 14, 2017 trial vacated and reset for November 7, 2017. Judgment and Order granted August 21, 2017. September 11, 2017 Plaintiff files motion to amend judgment. September 13, 2017 City Defendants file response to motion to amend judgment. September 18, 2017 Plaintiff files motion to change judge. September 20, 2017 Plaintiff files reply re motion to amend judgment. September 25, 2017 Court denies motion to amend judgment and denies motion to change judge. October 2, 2017 Plaintiff files notice of appeal. January 16, 2018 Appellant files Opening Brief. February 6, 2018 Defendants-Appellees Answer Brief. February 21, 2018 Plaintiff-Appellant files reply brief. February 27, 2018 Court dismisses appeal. Petition for Writ of Certiorari filed April 10, 2018. April 27, 2018 Respondents file opposition brief to Petition for Writ of Certiorari. May 4, 2018 Petitioner files reply brief. **September 4, 2018 Colorado Supreme Court denies Petition for Writ of Certiorari.**

(Turner)

NEW CASES

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

CLAIM: Plaintiff claims Defendants violated their First Amendment and Fourth Amendment rights in regards to the GreenFaithMinistry 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. Motion to Amend/Correct/Modify complaint filed and subsequent response and reply filed.

(Turner)

The City of Colorado Springs v. Chrystal Christian

El Paso County District Court Case No. 2018CV32769

CLAIM: City files case against Defendant for negligence on entering intersection on red light, striking Officer Bauer and causing damages.

STATUS: Complaint filed November 8, 2018.

(Stewart)

The City of Colorado Springs, a home rule municipal corporation and home rule city vs. Colorado Springs Municipal Court [Acting as a hearing officer in the matter of an appeal of a code enforcement Notice and Order] Court Referee Til Zeller Presiding and Freddie Joe Layberger [Appellant before the Municipal Court]

El Paso County Court Case No. 2018CV32757

CLAIM: City files Rule 106(a)(4) claim alleging that Hearing Officer abused its discretion and exceeded its jurisdiction during a Notice and Order code enforcement appeal.

STATUS: Complaint for Judicial Review filed November 7, 2018.

(Curran/Rostum)

Kanda Calef v. City of Colorado Springs

El Paso County District Court Case No. 18CV263

CLAIM: Plaintiff seeks a Court order to set ballot title after Title Board denied.

STATUS: Summons and Complaint served September 19, 2018. October 10, 2018 City files answer to appeal and complaint for denial of right to petition. Plaintiff's Opening Brief due November 19, 2018 and Defendants Answer is due December 3, 2018. Reply brief is due December 14, 2018.

(Lamphere)

Denis Prevost v. Kevin Carter

El Paso County District Court Case No. 2018CV32180

CLAIM: Plaintiff claims damages due to motor vehicle accident involving Defendant Carter.

STATUS: Approximately October 16, 2018 City received Summons and Complaint. October 29, 2018 Motion to dismiss filed by the City. November 19, 2018 Plaintiff files response to motion to dismiss. November 26, 2018 City files reply in support of motion to dismiss.

(Doherty)

(CC)

City of Colorado Springs, Colorado v. Robert T. Wilcox; Diane Y. Wilcox; U.S. Bank National Association, a National Banking Association d/b/a Colorado National Bank; Thomas S. Mowle, El Paso County Public Trustee; Mark Lowderman, El Paso County Treasurer

El Paso County District Court Case No. 2018CV32216

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

STATUS: Petition in Condemnation and Notice of Lis Pendens filed September 7, 2018. September 10, 2018 Petitioner files brief in support of motion for immediate possession. October 3, 2018 Respondents file answer to petition in condemnation. October 22, 2018 Court grants order for immediate possession.

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

Julie Sedore v. Harry Whaley, Housing Authority of the City of Colorado Springs, and Comcap Management LLC

El Paso County District Court Case No. 2018CV32529

CLAIM: Plaintiff claims damages due to a dog bite owned by Defendant Whaley. Plaintiff Sedore was a tenant at a property owned by the Housing Authority and claims premises liability and negligence as an invitee.

STATUS: Summons and Complaint served October 15, 2018. Plaintiff subsequently agreed that summons was improperly served on the City because the Housing Authority is a separate government entity.

(Lamphere)

(OC)

Rueben Waterman v. City of Colorado Springs

El Paso County 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.**

(Lessig/Frederickson/Fisher Phillips)

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.

(Eric Hall at Lewis Roca Rothgerber Christie)

FACILITIES

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.**

(Lamphere / Rob Zavaglia at Treece Alfrey Musal, P.C.)

PLANNING AND DEVELOPMENT

Dr. James D. Albert, an individual; and Bette Anne Albert, an individual v. City of Colorado Springs, a Colorado home rule municipality; Colorado Springs City Council, a governmental body within the City of Colorado Springs; The Newport Co., a Colorado corporation; Richard C. Delesk, an individual; and Patricia D. Ingels-Delesk, an individual

El Paso County District Court Case No. 17CV31802

Colorado Court of Appeals 2018CA1619

CLAIM: Plaintiffs file a C.R.C.P. 106(a)(4) complaint for judicial review of the Council decision affirming Planning Commission's conditional approval of preliminary and final plats for a 4.7 acre tract referred to as Archer Park Development. Plaintiffs claim City Council exceeded its jurisdiction and abused its discretion.

STATUS: Summons and Complaint received August 1, 2017. City files Answer to Complaint August 22, 2017. September 26, 2017 Court grants Plaintiffs' motion to certify the administrative record. January 12, 2018 Plaintiffs file a status report to the Court. January 16, 2018 City files status report to the Court. January 23, 2018 City files certified record of proceedings and recordings. January 29, 2018 Plaintiff files motion to amend administrative record and extension to file Opening Brief. March 2, 2018 Court denies motion to amend administrative record. April 13, 2018 Plaintiffs file opening brief. May 18, 2018 City files answer brief. June 8, 2018 Plaintiff files reply brief. July 26, 2018 Court files findings of fact, conclusions of law and order and affirms City Council decision. **August 28, 2018 Plaintiff Appellant files Notice of Appeal. Record on Appeal due October 30, 2018.**

(Turner)

Broadmoor Bluffs Neighborhood Association, a Nonprofit corporation v. City of Colorado Springs
El Paso County District Court Case No. 18CV30768

Colorado Court of Appeals 2018CA2113

CLAIM: Alleges the City Council acted arbitrarily and capriciously in denying Plaintiff's appeal of the Planning Commission's decision approving the development plan and final plat for The Ridge.

STATUS: Summons and Complaint for Judicial Review and Request for Stay and Designation of Record served April 12, 2018. May 24, 2018 City files answer and affirmative defenses. June 8, 2018 Court grants Commonwealth Development's motion to intervene. On July 20, 2018, Plaintiff filed a motion to supplement the record. Defendants file a joint response in opposition on August 10, 2018. On July 26, 2018, Plaintiff filed a motion to extend its deadline to file its opening brief. Defendants opposed the motion and filed responses on July 27, 2018. **August 29, 2018 Plaintiff / Appellant files opening brief. September 19, 2018 Defendants file joint answer brief. September 26, 2018 Plaintiff's file reply to City's answer. On October 3, 2018 The Court ruled on 106 and affirmed the City Council's decision to uphold The Ridge. Broadmoor Bluffs files Notice of Appeal on November 6, 2018.**

(Stewart)

POLICE

Sean Welch v. Michael Happ and City of Colorado Springs

El Paso County District Court Case No. 2018CV031547

CLAIM: Plaintiff claims Defendant Happ, who was employed by the City of Colorado Springs, was negligent causing traffic accident.

STATUS: Summons and Complaint served July 12, 2018. August 2, 2018 Defendants file answer to complaint.
(Turner)

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

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

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 City 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.

(Stewart)

Willie Watlington v. Tim Browne

United States District Court Case No. 17-cv-02972

CLAIM: Plaintiff brings § 1983 claims alleging wrongful stop and excessive force.

STATUS: Summons and Complaint served February 15, 2018. March 8, 2018 Defendant files Motion to Dismiss. April 19, 2018 Plaintiff files response to motion to dismiss. May 3, 2018 Defendant files reply to its motion to dismiss. This matter is currently set for trial on March 4, 2019. October 1, 2018 Report and recommendation by magistrate judge states Defendant's motion to dismiss should be granted and claims dismissed. Objection to report and recommendations filed by Plaintiff on October 15, 2018.

(Stewart)

Marcus Whaley v. Colorado Springs Police

El Paso County District Court Case No. 17CV423

Colorado Court of Appeals Case No. 2018CA300

CLAIM: Plaintiff claims damage and injury due to police cruiser colliding with vehicle after being pursued in a police chase.

STATUS: Summons and Complaint served October 18, 2017. November 8, 2017 Motion to dismiss filed by Defendant. Plaintiff files various responses to motion to dismiss and motion to amend complaint. January 22, 2018 City files a reply to its motion to dismiss. Additionally, it files a motion to dismiss based on lack of notice of claim. January 23, 2018 City files response to Plaintiff's motion to amend complaint. February 12, 2018 Plaintiff files Notice of Appeal. February 21, 2018 Court grants CSPD's motion to dismiss. April 30, 2018 Plaintiff files opening brief. July 2, 2018 City files answer brief.

(Turner)

REAL ESTATE SERVICES

Dadz, LLC, a Colorado limited liability company v. Gumaer Placer, LLC, a Colorado limited liability company; and the City of Colorado Springs, Colorado, a municipal corporation

Park County District Court Case No. 2017CV030019

CLAIM: Plaintiff seeks an action for partition of property in Park County by sale.
STATUS: Summons and Complaint served April 24, 2017. City files answer May 15, 2017. December 11, 2017 Plaintiff files motion to compel defendant Gumaer Placer for written discovery responses. January 17, 2018 Plaintiff files motion for summary judgment on Defendant Gumaer's affirmative defenses and files motion for determination of a question of law. Mediation held January 29, 2018. February 7, 2018 City files response to Plaintiff's motion for determination of a question of law. February 19, 2018 Plaintiff files reply to its motion for determination of a question of law. February 28, 2018 Defendant files response to Plaintiff's motion for summary judgment on affirmative defenses and motion for determination of question of law. March 21, 2018 Court denies motion for summary judgment on affirmative defenses and motion for determination of question of law. July 18, 2018 Defendant City is substituted as the Plaintiff in this case and Dadz is dismissed.
(Turner)

TRANSIT SERVICES

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

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. (Doherty)

UTILITIES

Joseph P. Abbate and Echo M. Abbate a.k.a Echo M. Hurdorn v. Colorado Springs Utilities, a subsidiary of City of Colorado Springs; City of Colorado Springs, a municipal corporation; and Capital Real Estate – Bellaire Ranch, LLC

El Paso County District Court Case No. 18CV31881

CLAIM: Plaintiff's claims damages for CSU's alleged negligence for failing to exercise care in maintain and repairing sewer lines causing flooding in Plaintiff's home.

STATUS: Summons and Complaint served July 27, 2018. **August 21, 2018 City defendants file motion to dismiss. September 11, 2018 Plaintiff files response and objection to City Defendants' motion to dismiss. September 18, 2018 Defendants file reply brief in support of motion to dismiss. October 15, 2018 Court granted City's motion to dismiss in part and denied the motion in part. Plaintiff's first claim for relief will proceed. October 29, 2018 City files answer and defenses to complaint.**

(Doherty)

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

El Paso County District Court Case No. 17CV31243

Colorado Court of Appeals 2017CA2103

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.**
(Doherty)

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

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

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

(OC)

City of Colorado Springs, Colorado and City of Aurora, Colorado v. URS Corporation and AECOM Technical Services, Inc.

El Paso County District Court Case No. 2016CV33378

CLAIM: Cities of Colorado Springs and Aurora claim negligence and breach of contract by Defendant in the delivery of is design and engineering services as part of the Homestake Dam AC Liner Rehabilitation project.

STATUS: Complaint filed December 16, 2016. Summons served on January 18, 2017. On April 14, 2017, Defendants filed their Answer with jury demand, a partial motion to dismiss and a motion for extension of time to designate nonparties at fault. On June 16 and 17, 2017, Plaintiffs filed their responses in opposition to URS’ partial motion to dismiss and AECOM’s motion to dismiss. On June 27, 2017, the parties filed a joint stipulation to substitute AECOM Technical Services, Inc. for AECOM that necessitated the filing of an Amended Complaint on June 28, 2017. On July 12 and 26, 2017, respectively, Defendants URS and AECOM Technical Services filed their Answers with jury demands. Subsequently, the parties stipulated to an “at issue” date of September 1, 2017. On November 13, 2017, the Court granted URS’ partial motion to dismiss without prejudice. Depositions of fact witnesses were concluded in April, 2018. Plaintiffs’ initial expert reports were disclosed on May 21, 2018; Defendants disclosed their expert reports on August 13, 2018; Plaintiffs’ rebuttal expert disclosures filed on September 3, 2018; **expert depositions followed in August and September. On August 24, 2018, the Court denied Defendants’ summary judgment motion based on statute of limitations. On October 2, 2018 – the scheduled first day of trial – the Court denied all pending motions of Defendants and the parties proceeded to seat a jury. Immediately prior to opening statements, the parties reached a settlement in principle and vacated the trial. As of November 20, 2018, the settlement documents are still being finalized.**

(Beckett/ Bret Gunnell of Beltzer, Bangert & Gunnell, LLP)

(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.**

(Alan J. Gilbert / Bryan Cave, LLP)

ADMINISTRATIVE SECTION

DISPOSED MATTERS

EMPLOYEE V. CITY OF COLORADO SPRINGS, Charge Number CCRD FE2018497405
August 31, 2017 Claimant brings charge of alleged discrimination under sexual orientation, sex and retaliation. City's response due October 5, 2017. Extension granted. City's Position Statement and responses to RFI filed October 20, 2017. **City received dismissal and notice of right to sue on July 20, 2018. Deadline to file lawsuit in 90 days approximately October 18, 2018.**

(McCall)

EMPLOYEE V. CITY OF COLORADO SPRINGS, Charge Number EEOC 541-2018-01032
Claimant brings charge of alleged discrimination under Title VII of the Civil Rights Act on. City received dismissal and notice of right to sue on June 22, 2018. Deadline to file lawsuit is approximately September 25, 2018.

(Lessig/McCall)

EMPLOYEE V. CITY OF COLORADO SPRINGS, Charge Number FE2019778136
July 17, 2018 Claimant brings charge of alleged discrimination based on race, color, and retaliation under Title VII of the Civil Rights Act. Charge received on July 26, 2018. Position statement and response to request for information due September 14, 2018. **Mediation held on September 28, 2018. Claimant filed CCRD withdrawal request October 22, 2018. Settlement agreement executed on November 6, 2018 for no monetary amount.**

(Rose)

NEW MATTERS

CURRENT MATTERS

EMPLOYEE V. CITY OF COLORADO SPRINGS, Charge Number EEOC 541-2018-00949
July 18, 2018 Claimant brings charge of alleged discrimination under Title VII of the Civil Rights Act. Position Statement deadline due August 28, 2018. **Pending EEOC decision.**

(McCall)

EMPLOYEE V. CITY OF COLORADO SPRINGS, Charge Number EEOC 541-2018-00248
November 3, 2017 Claimant brings charge of alleged discrimination under Title VII of the Civil Rights Act and age discrimination. City's Position Statement and responses to RFI filed December 22, 2017. **EEOC dismissal received November 8, 2018. 90 Day deadline to file lawsuit is approximately February 8, 2019.**

(McCall)

EMPLOYEE V. CITY OF COLORADO SPRINGS, Charge Number 541-2016-00417.
Claimant brings charge of alleged gender and age discrimination dated November 20, 2015. Position Statement and RFI due December 28, 2015. Pending EEOC decision.(Lessig)

UTILITIES: Water Court Cases

Total Active Application Cases: **6 (4 Diligence cases)**

Application Cases Before Water Referee: **4**

<u>Number</u>	<u>Case Name</u>
15CW3019	Blue River (Diligence)
15CW3050	Twin Lakes (Diligence)
18CW3041	Homestake / Blue River (Diligence)
18CW3053	Sugar Loaf Reservoir (Diligence)

Application Cases Before Water Judge: **2**

<u>Number</u>	<u>Case Name</u>
13CW3077	Green Mountain Reservoir
16CW3056	FMIC / Chilcott Augmentation Plan

Total Objector Cases: **17**

Stipulated: **5**
Active: **12**

Active Before Water Referee: **4**

Active Before Water Judge: **8**

<u>Number</u>	<u>Case Name</u>
11CW77	Lower Arkansas Valley Water & Larkspur, Inc.
12CW176	Climax Molybdenum Company
13CW3109	City of Glenwood Springs
15CW3016	United States of America c/o USAFA
16CW3103	Board of Water Works of Pueblo, Colorado
17CW3050	Board of Water Works of Pueblo, Colorado
17CW3072	Widefield Water & Sanitation District
18CW3016	Triview Metropolitan District & FMIC

WORKERS COMPENSATION MATTERS OUTSIDE COUNSEL

Active cases:

Municipal – 77

Utilities – 27

Memorial - 1

Subrogation cases handled by outside counsel:

Municipal – 0

Utilities – 0

Subrogation cases handled by City Attorney's Office:

Municipal – 3

Utilities – 0

CRIMINAL PROSECUTIONS SECTION

(MUNICIPAL COURT)

	<u>AUGUST</u>	<u>SEPTEMBER</u>	<u>OCTOBER</u>
Cases Docketed for Trial by Court	218	116	248
Cases tried:	137	65	147
Cases handled without trial:	81	51	101
Cases Docketed for Trial by Jury:	48	23	66
Cases tried:	4	1	3
Cases handled without trial:	44	22	63
Cases Handled on Deferred Docket:	195	154	128
Cases Handled at Pretrial:	505	319	497
Cases Handled Instant Pre-Trial:	682	827	1056
Mailed Dispositions:	43	17	28
Criminal Arraignments Screened:	695	759	836
Jail Docket:	392	431	511
Administrative Hearings:	1	0	6
NPOI:	90	116	142
Good Driver Letters Mailed:	725	626	648
Good Driver Letters Accepted:	513	499	433
TOTAL MATTERS:	3292	3145	3809