

QUARTERLY REPORT
TO CITY COUNCIL

LITIGATION AND ADMINISTRATIVE MATTERS

November 2013

Covering September through November 2013



Christopher J. Melcher
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. *NOTE: Hours worked are cumulative and reflect combined time of attorneys and paralegals.*

DISPOSED CASES

ASHTON, BURKE and (Plaintiff-Intervenor) CITY OF COLORADO SPRINGS v. SHAWNE B. BEAVERS

El Paso County District Court Case Number 2012CV5438

CLAIM: This case stems from a motor vehicle accident on November 15, 2012 when Defendant’s vehicle struck Plaintiff’s vehicle while in the scope of his employment with the City.

STATUS: City files a Motion to Intervene and Complaint on January 2, 2013 for subrogation interests regarding Plaintiff’s workers compensation claim. **September 26, 2013 Parties settle matter. September 30, 2013 Parties file Stipulation for dismissal with prejudice. October 1, 2013 Court grants dismissal with prejudice.**

(Total 93.75 hours - Lamphere)

Brown, Ryan Anthony v. City of Colorado Springs

El Paso County District Court Case No. 13CV132

CLAIM: Appellant files appeal against Municipal ruling.

STATUS: April 15, 2013 Appellant files Notice of Appeal and Designation of Record. July 17, 2013 City files motion to dismiss. August 27, 2013 Court grants City’s motion to dismiss. (Total _ hours - Stewart)

City of Colorado Springs Municipal Court v. Burton Burnache

El Paso County District Court Case Number 13CV30709

CLAIM: Appellant files appeal against Municipal ruling.

STATUS: June 30, 2013 Appellant files Notice of Appeal and Designation of Record. **September 13, 2013 Appellee files objection to the record and motion to stay proceedings. October 1, 2013 Counsel for Appellee files status report; Court issues order dismissing appeal.** (Total _ hours – Stewart)

CITY OF COLORADO SPRINGS, COLORADO v. LWD, LLC, A COLORADO LIMITED LIABILITY COMPANY; FIRST-CITIZENS BANK AND TRUST COMPANY, A NORTH CAROLINA CORPORATION; COLORADO CAPITAL BANK, A COLORADO CORPORATION; THOMAS S. MOWLE, EL PAST COUNTY PUBLIC TRUSTEE, ROBERT C. BALINK, EL PASO COUNTY TREASURER.

El Paso County District Court Case No. 2012 CV3742. The City filed this action in order to acquire a certain right-of-way in the form of a permanent easement and a temporary construction easement by eminent domain for the completion of the Southern Delivery System. The City requests that the Court determine the compensation to be paid

Respondents for the interests in the subject property and that the City have judgment condemning the property upon compensation by the City to the Respondents. August 1, 2012 Summons issued to LWD, LLC. August 7, 2012 Certificate of Service filed. August 10, 2012 Certificate of Service filed. August 15, 2012 Certificate of Service filed. August 21, 2012 Parties file stipulation for immediate possession. August 23, 2012 Court grants order for immediate possession. August 28, 2012 Notice of joinder in stipulation for immediate possession, claim of First Citizens Bank and Trust Company in proceeds deposited in the Court registry by Petitioner and objection to the disbursement of proceeds without notice and right to be heard. August 30, 2012 Respondents Balink and Mowle file disclaimer. July 8, 2013 Parties file consents to entry of Rule and Order along with Rule and Order. July 17, 2013 Court files order granting rule and order. (Total 8.75 Hours – Turner / Blieszner of Welborn, Sullivan, Meck & Tooley, P.C.)

(OC)

City of Colorado Springs, Colorado v. Norris Properties, LLC, a Colorado limited liability company; BJ Ranches, LLC, n/k/a T-Cross Properties, LLC, a Colorado limited liability company; Robert C. Norris; Thomas S. Mowle, El Paso County Public Trustee, Robert C. Balink, El Paso County Treasurer

El Paso County District Court Case No. 2013CV1748

CLAIM: City of Colorado Springs brings action to acquire certain property for public use.

STATUS: April 5, 2013 Petition for Condemnation filed. May 7, 2013 Respondent-Landowner's Answer to Petition in Condemnation filed. May 15, 2013 Motion for immediate possession is filed. May 17, 2013 Answer filed by Robert C. Balink, El Paso County Treasurer. May 28, 2013 City files bench brief regarding immediate possession; City files brief re attorney client privilege. June 13, 2013 Respondent files motion to continue immediate possession hearing and request for immediate disposition; motion for a sanction. June 19, 2013 Petitioner files response to forthwith motion to continue immediate possession hearing and request for immediate disposition; Petitioner files response to respondent's motion for a sanction. June 20, 2013 Court denies the motion to continue immediate possession hearing. June 21, 2013 Respondent files reply in support of motion for a sanction. June 27, 2013 Court denies motion for sanction and denies motion to continue. July 12, 2013 Parties file consents to entry of rule and order. July 17, 2013 Court files order granting Rule and Order.

(Total 213.25 hours – Edward J. Blieszner at Welborn Sullivan Meck & Tooley, P.C. / Anne Turner)

JAK Capital, LLC v. City of Colorado Springs

El Paso County Court Case No. 2011CV6161

CLAIM: Plaintiff alleges that due to the City of Colorado Springs' negligence and improper design of the railroad crossing at Las Vegas Street and South Royer Street, a motor coach on December 15, 2009, owned by JAK Capital LLC became high-centered and was struck by a locomotive.

STATUS: City files an Answer and designates nonparty tortfeasors Taylor Tours, Ronald Marchland, Jr., Nikki Clingman and John Smith II. A three day jury trial is currently scheduled to begin on April 8, 2013.

On November 19, 2012 The City filed a statutory offer of settlement. A recent motion to continue trial was granted. The case is currently set for mediation in February, 2013. March 25, 2013 City files motion to dismiss. April 5, 2013 Plaintiff files brief in opposition to Defendant's motion to dismiss. Defendant files reply to Plaintiff's brief in opposition to Defendant's motion to dismiss. April 18, 2013 Plaintiff files motion for partial summary judgment. May 9, 2013 Defendant's file response to Plaintiff's motion for partial summary judgment. May 27, 2013 Plaintiff files reply brief in support of its motion for partial summary judgment. July 12, 2013 City files motion for protective order and to vacate trial date. July 17, 2013 Court grants Defendants Motion to Dismiss. Plaintiff's deadline to appeal is September 4, 2013. August 7, 2013 Defendants file bill of costs and motion for award of attorney's fees. August 27, 2013 Plaintiff files brief in opposition to Defendants motion for award of attorney's fees. **September 3, 2013 Defendants file Reply to Plaintiff's brief in opposition to attorney's fees. September 13, 2013 Court grants attorney fees and judgment is entered against the Plaintiff.** (Total 503.5 hours – Lamphere)

LANE, STEPHEN v. DETECTIVE R.A. YOHN AND COLORADO SPRINGS POLICE DEPARTMENT

United States District Court Case No. 12-cv2183-MSK-MEH;

United States Court of Appeals for the Tenth Circuit Case No. 13-1392

CLAIM: Plaintiff claims that he was misidentified as a criminal suspect, leading to his false arrest in violation of his Fourth Amendment rights.

STATUS: September 17, 2012 Summons and Complaint served. October 9, 2012 Defendants file unopposed motion for protective order from discovery and to vacate scheduling conference. October 15, 2012 Court issues order staying all proceedings until January 4, 2013. October 29, 2012 Plaintiff files motion for leave to file amended complaint, which was granted on October 31, 2012. November 14, 2012 Defendants file motion to dismiss Plaintiff's amended complaint. November 26, 2012 Plaintiff files response to Defendant's motion to dismiss. December 21, 2012 Defendants file reply in further support of their motion to dismiss Plaintiff's amended complaint. January 4, 2013 Court extends stay of discovery to January 31, 2013 and sets status conference for February 5, 2013 at 9:45 a.m. February 5, 2013 Magistrate Judge files recommendation that Defendants motion to dismiss be granted. Objection and responses were filed in response to Magistrate Judge's recommendations. **September 6, 2013 Opinion and Order adopting recommendation and granting motion to dismiss. All claims in this action are dismissed. Judgment entered. September 19, 2013 Plaintiff files Notice of Appeal. September 30, 2013 Record complete. October 30, 2013 Parties file stipulation to dismiss appeal. October 31, 2013 Tenth Circuit Court of Appeals issues order dismissing case with prejudice. November 4, 2013 Mandate issued by Tenth Circuit Court of Appeals.** (Total 121.0 hours – Turner)

PETERS, DUAINE – SUBROGATION MATTER

Work Compensation Case No. 12-015882

CLAIM: Duaine Peters, a Colorado Springs Police Officer, was involved in motorcycle escort training and was involved in an accident. The City is requesting subrogation from the County.

(Total 47 hours – Lamphere) – **Please see related matter in “Current Cases” detailed below.**

Sorensen, James v. City of Colorado Springs, a home rule city; Peter Carey*, Larry C . Morgan*, Lance Lazoff*, Tim Stankey*, Katie Buckley*, Roger Vargason*, Bob Peltz*, Joe Brown*, Clay Sunada*, John / Jane Doe(s) 1-10* *Both individual and official capacity

El Paso County District Court Case No. 2013CV1767

CLAIM: Plaintiff brings section 1983 claims regarding arrest on July 21, 2012 in Acacia Park for openly carrying a weapon.

STATUS: Waivers of Summons and Complaint sent April 8, 2013. April 15, 2013 Plaintiff files unopposed motion to dismiss Katie Buckley and to amend caption. April 29, 2013 City Defendants file Answer and Jury Demand. A 10-day Jury Trial is scheduled to begin August 4, 2014. **August 28, 2013 City Defendants file Offer of Settlement. Parties settle matter. November 4, 2013 Case dismissed with prejudice.**

(Total 180.25 hours – Lamphere)

THORNTON v. CHARLES CALLOWAY, INDIVIDUALLY AND IN HIS CAPACITY AS AN OFFICER WITH THE COLORADO SPRINGS POLICE DEPARTMENT; THE COLORADO SPRINGS POLICE DEPARTMENT; AND THE CITY OF COLORADO SPRINGS, COLORADO

El Paso County District Court Case Number 12CV4760

CLAIM: Plaintiff claims that Officer Calloway applied handcuffs too tight and acted negligently. Plaintiff claims that because of this negligence he suffered injuries, damages and violation of his Constitutional rights.

STATUS: October 9, 2012 Summons and complaint served. October 29, 2012 the City and CSPD file motion to dismiss. November 29, 2012 Court issues order denying the motion to dismiss. December 13, 2012 Defendants file answer and affirmative defenses. Discovery commences. **September 23, 2013 Parties file stipulated motion for dismissal with prejudice; Court grants stipulated motion for dismissal with prejudice. Action is dismissed.**

(Total 63.25 hours – White)

TCF National Bank, a national banking association v. Kenneth B. Holbert, AKA Kenneth B Holbert Sr. & Teresa J. Holbert, Harrison Business Park, LLC, Thomas S. Mowle as El Paso County Public Trustee, Robert C. Balink, as El Paso County Treasurer, Kara Skinner as Director of Finance for the City of Colorado Springs, Unknown Tenant(s) in Possession

El Paso County District Court Case No. 2013CV31233

CLAIM: Action has commenced for decree entitling Plaintiff to foreclose its lien affection real property at Southborough Subdivision at 4671 Bailey Drive, Colorado Springs, CO 80916.

STATUS: September 16, 2013 Served Summons and Complaint for Foreclosure on Kara Skinner. October 7, 2013 City files disclaimer of interest and request to be dismissed for the matter. October 9, 2013 Court grants order dismissing the City of Colorado Springs.

(Total 3.25 hours – Gendill)

ULLMAN, SUSAN FRANCES and GRAYSON KENNEDY ULLMAN v. SERGEANT LOFGREN, IN HIS INDIVIDUAL AND OFFICIAL CAPACITIES; OFFICER D. BUCKSATH, IN HIS INDIVIDUAL CAPACITY; OFFICER D. WILBERDING, IN HIS INDIVIDUAL CAPACITY; OFFICER R. HAYES, IN HIS INDIVIDUAL CAPACITY; OFFICER C. DRYMAN, IN HIS INDIVIDUAL CAPACITY; THE CITY OF COLORADO SPRINGS, COLORADO, A MUNICIPALITY; AND ANITA LUBE.

El Paso County District Court Case No. 12CV1748

CLAIM: Plaintiffs claim Defendants violated their 4th amendment Constitutional rights during a “SWAT raid” to execute an arrest warrant at the Plaintiff’s home.

STATUS: May 24, 2012 Summons and Complaint received. June 15, 2012 the City files motion to dismiss; Officers file Answer and Affirmative Defenses to Amended Complaint. Plaintiff files amended complaint for damages – jury trial demanded. July 11, 2012 Court issues order granting City’s motion to dismiss, which was reversed due to Plaintiff’s motion for reconsideration. August 7, 2012 Defendants file answer and affirmative defenses to amended complaint dated July 6, 2012. August 29, 2012 Defendant Anita Lube files motion to dismiss. September 27, 2012 Court issues order granting Anita Lube’s motion to dismiss. October 2, 2012 Plaintiff files motion to amend complaint, which was granted on October 31, 2012. December 10, 2012 City Defendants’ file answer and affirmative defenses to second amended complaint. Trial set for 4 days beginning December 13, 2013. Discovery commences. **September 23, 2013 Court denies a motion to vacate trial. October 21, 2013 Parties file stipulated motion to dismiss with prejudice. October 27, 2013 Judge grants motion to dismiss with prejudice.**

(Total 165.0 hours – White)

NEW CASES

Clark, Debra v. Joanne Colby, Sharon Blake and the City of Colorado Springs

El Paso County District Court Case No. 2013CV31610

CLAIM: Plaintiff claims that Defendants knew or should have known that the sidewalk at 2720 Wood Avenue created a dangerous condition. Plaintiff was walking her dog and tripped over the raised sidewalk causing damages.

STATUS: October 23, 2013 Summons and Complaint served. November 13, 2013 City files answer to Plaintiff’s complaint.

(Total 8.25 hours – Gendill)

Crow, Jimmie R., M.D. v. Memorial Health System, Terry L. Huskins, Jeff Johnson, Dr. Patrick Faricy, M.D., and Michael A. Scialdone

United States District Court Case No. 13-cv-02842-RBJ

CLAIM: Plaintiff alleges that following an injury that required a leave of absence, he was denied the opportunity to return to work, he was wrongfully terminated, he was denied reasonable accommodation under the Americans with Disabilities Act, he was treated differently than similarly situated females, and he was paid less than females. Claims for relief include a violation of the Americans with Disability Act, due process

violations under the Fourteenth Amendment, discrimination on the basis of sex under Title VII, age discrimination, and breach of contract.

STATUS: Case filed October 17, 2013; City has not yet accepted service.

(Total 3.5 hours - Lessig)

IN THE MATTER OF THE APPLICATION AND REQUEST OF THE CITY OF COLORADO SPRINGS FOR AUTHORITY TO ESTABLISH A NEW PUBLIC CROSSING AND IMPROVED APPROACH AT THE CROSSING OF THE EXISTING TRACKS LOCATED NEAR THE INTERSECTION OF LOREN LANE AND INTERSTATE 25, IN EL PASO COUNTY, COLORADO

Public Utilities Commission of the State of Colorado Docket NO. _____

APPLICATION: The City applies to the Public Utilities Commission for authorization to establish a new public railway crossing and improve approach at the intersection of Loren Lane and railroad tracks.

STATUS: October 21, 2013 City files notice of application and petition. October 29, 2013 PUC issues a 30-day notice to interested parties to file Notice of Intervention.

(Total 0 hours – Burgess).

Luciani, Donna v. Roger D. Sung, M.D.; Memorial Health System, an Enterprise of the City of Colorado Springs, Colorado, doing business as Memorial Hospital; and Seaspine, Inc.

El Paso County District Court Case No. 2013CV30072

CLAIM: Plaintiff alleges that following spinal surgery at Memorial Hospital in June, 2010, she continued to experience pain. Plaintiff alleges that during follow-up surgery it was found that the hardware placed in her spine during the previous surgery had broken and was unable to be removed. In addition, Plaintiff alleges that the hardware in question had been the subject of a recall in September, 2009. Claims for relief include negligence against the caregiver, the hospital, and the manufacturer of the medical hardware.

STATUS: Complaint filed June 7, 2013. September 2, 2013 Memorial files answer. Other Defendants have filed their answers and all parties have exchanged disclosures pursuant to C.R.C.P. 26(a)(1). Trial is currently scheduled for September 29, 2014.

(Watts at Retherford, Mullen & Moore)

(OC)

Mohamad, Nancy C. v. McDonald Transit Associates, Inc. and the City of Colorado Springs

El Pas County District Court Case No. 13CV30621

CLAIM: Plaintiff alleges that due to negligence, unlawfulness and carelessness of a bus driver, Plaintiff fell causing injuries and damages.

STATUS: Complaint filed July 24, 2013. August 30, 2013 Defendant McDonald files answer. October 7, 2013 City files answer. Case management conference scheduled for December 26, 2013.

(Total – 3 hours / E. Kennedy at Hall & Evans, LLC)

Romens, Alan J. v. City of Colorado Springs

United States District Court Case No. 13-cv-01441-RM-KLM

CLAIM: Plaintiff brings 1983 action claiming violation of Equal Protection Clause of the Fourteenth Amendment to the United States Constitution stating that sworn marshal positions pay significantly more than his position as a civilian marshal position and require the same duties.

STATUS: September 3, 2013 Summons and Complaint received via mail with Waiver of Service. September 6, 2013 Waiver of Service signed by Christie McCall. September 9, 2013 City files unopposed motion to vacate and reschedule scheduling conference. September 10, 2013 Court grants motion to vacate and resets scheduling conference for November 18, 2013. November 4, 2013 City files motion to dismiss. (Total 87.0 hours - McCall)

Stewart, Tiffany v. City of Colorado Springs, f/d/b/a Memorial Health Systems; and UCHealth, d/b/a Memorial Health Systems; University of Colorado Hospital Authority
El Paso County District Court Case No. 2013CV030710

CLAIM: Plaintiff alleges that she arrived at Memorial Hospital in July, 2011 with a migraine headache. Plaintiff alleges that two spinal taps were conducted, confirming a diagnosis of aseptic meningitis. Plaintiff alleges that a third spinal tap was ordered but not conducted and a physician intervened to conduct a fourth spinal tap. Plaintiff alleges she later lost sensation in her extremities and developed severe pain. Plaintiff alleges that despite being discharged to physical therapy and her compliance with all directives, she did not regain full use of her legs, stamina, or strength. Claims for relief include negligence and battery.

STATUS: Case filed July 30, 2013. November 7, 2013 Summons and complaint served. (Moore at Retherford, Mullen & Moore)

Stoa, Kris and the City of Colorado Springs v. Susan Barnes

El Paso County District Court Case No. 2013 CV30742

CLAIM: Stoa and the City of Colorado Springs initiated suit against Barnes after Stoa, who was in the course of his employment, was injured during an automobile collision caused by Barnes.

STATUS: September 9, 2013 City enters its appearance. September 20, 2013 Defendant Barnes files answer to Complaint and Jury Demand. (Total 28.75 hours - Lamphere)

CURRENT CASES

AIRPORT

(OC)

Scott, Danielle v. The City of Colorado Springs

United States District Court Case No. 12-cv-01028

CLAIM: Plaintiff, an Accounting Supervisor at the Colorado Springs Airport, alleges that due to manufactured allegations against her in 2010, she was discriminated against multiple times due to race. She also claims she was retaliated against for

engaging in protected activity. Plaintiff alleges she was denied more than one promotion, adequate training, and that there is a pattern and practice of disparate treatment of black employees. Plaintiff seeks damages.

STATUS: On June 15, 2012 City filed motion to dismiss Plaintiff's fourth claim for relief; City filed Answer and jury demand. Court granted City's motion to dismiss fourth claim for relief. Discovery has commenced. March 27, 2013 Defendants file motion for summary judgment of Plaintiff's claims. June 10, 2013 Plaintiff files Response in opposition to Defendant's motion for summary judgment. June 24, 2013 Defendants file reply to its motion for summary judgment of Plaintiff's claims pursuant to F/R/C/P/ Rule 56 and request for oral argument. **Hearing on Defendant's motion for summary judgment held September 9, 2013 at 2:00 p.m. Court stays case, including discovery pending Plaintiff's receipt and filing of EEOC's notice of right to sue and an amended complaint is filed with new charges after termination.**

(Total 166.0 hours – Lessig / Michael Sullivan - Harris, Karstaedt, Jamison & Powers, PC)

CITY CLERK

The Colorado Springs Citizens for Community Rights' Petition Committee v. City of Colorado Springs, Colorado

El Paso County District Court Case Number 13CV2082

CLAIM: Plaintiff files Complaint seeking declaratory and injunctive relief regarding the Colorado Springs Title Review Board's May 2, 2013 final decision concerning Proposed Charter Amendment IO 2013-001, known as "Community Bill of Rights Protection from Natural Gas & Oil Production" which sought regulation on oil and gas exploration, including fracking within the jurisdiction of the City of Colorado Springs. The Title Board rejected the Proposed Charter Amendment.

STATUS: May 23, 2013 Summons and Complaint served. July 8, 2013 Defendant City files Answer; City files partial Motion to Dismiss. August 5, 2013 Plaintiff files response to Defendants' partial motion to dismiss. August 12, 2013 Defendants file reply brief in support of their motion to dismiss (partial). **September 4, 2013 Court files order regarding motion to dismiss denying Defendants motion to dismiss (partial). September 12, 2013 Defendant files answer to Plaintiff's Second Amended Complaint.**

(Total 102.50 hours – Gendill/McCall).

Fortner, Darrell and Jennifer Fortner d/b/a Diamond/Dundee Tree Service v. The City of Colorado Springs; Kathryn Young, individually and in her official capacity as City Clerk of Colorado Springs, Darrel Pearson, individually and in his official capacity as City Forrester of Colorado Springs, James A. Choate, in his individual capacity as Sergeant for El Paso County Sheriff's Office, Terry Maketa, in his individual capacity as Sheriff of El Paso County, Colorado, and James E. McGannon, individually and in his official capacity as City Forrester for the City of Colorado Springs.

United States District Court Case No. 06-CV-02148-BNB;

United States Court of Appeals for the Tenth Circuit Case No. 13-1394

CLAIM: Plaintiffs' remaining claims are that Defendant Young violated their due process rights by holding an appeal hearing before City Council without their presence or their attorney's presence after their business license had been denied. Plaintiffs further claim that Defendants McGannon and Pearson illegally arrested and prosecuted them for operating a business without a license. As to the County Defendants, Plaintiffs claim that Darrell Fortner's name was placed on a sex offender registry without just cause.

STATUS: Numerous Defendants have been dismissed from the case by the Court through motions to dismiss, summary judgment motions and hearings. City has filed motions to dismiss on the first and second amended complaints with objections to all following amended complaints. Court denied Plaintiff's motion for a fifth amended complaint. In August 2008, City filed a Motion for Summary Judgment which was denied without prejudice by the Court stating the City may resubmit motion for summary judgment stating which claims should be barred by res judicata. In March 2009 City files second motion for summary judgment. Magistrate judge makes recommendations stating the judge should: 1) grant City's motion for summary judgment as to claims against Pearson for allegedly striking Plaintiff; claims against the City for actions from May, 1994 through 1996 alleging harassment, conspiracy, unlawful arrest, suspension of Plaintiffs' tree business license, and failure to properly supervise and train; and failure to renew Plaintiff's tree service license in 1997; and denying the motion as to all other claims against the City and 2) granting County's motion for summary judgment as to due process claims and denying its motion on Plaintiff's state law tort claims. In January 2010, Court issues orders accepting magistrate's recommendation as to City's motion for summary judgment and denying magistrate's recommendation as to denial of acceptance of County's supplemental motion for summary judgment. County seeks enforced settlement agreement from Plaintiff after Plaintiff "backed out". Evidentiary hearing held on January 7, 2013. March 4, 2013 Court issues order granting County's motion to enforce settlement of \$9,900; Defendants James Choate and Terry Maketa are dismissed from this action. 5 day trial to the Court is set for June 1, 2013. March 29, 2013 Plaintiff filed motion in limine. April 5, 2013 Defendant files response to Plaintiff's motion in limine. April 10, 2013 Court denies Plaintiff's motion in limine. June 3, 2013 Trial preparation conference was held: Judge denied motion to vacate trial date, denied motion to reinstate City of Colorado Springs, motion to consider attorney fees, motion to file motion to strike defendant's exhibits, and motion to withdraw exhibits. Court enters an order of sequestration for witnesses. June 10-11, 2013 trial to Court held. August 20, 2013 Court issues Findings of Facts, Conclusions of Law, and Order that judgment shall enter in favor of the City Defendants and against Plaintiffs Defendants are awarded costs on the filing of a bill of costs. August 21, 2013 Judgment is entered and the action is dismissed on the merits and Defendants are awarded costs. **August 28, 2013 Defendants file proposed bill of costs. Costs awarded in the amount of \$1,700.46. September 23, 2013 Plaintiffs' file Notice of Appeal. All parties have entered their appearance. Appellants' brief and record on appeal due December 2, 2013. October 23, 2013 Record on appeal filed.**

(Total 905.0 hours – White)

McCarville, Roger v. City Of Colorado Springs
El Paso County District Court Case No. 12CV306;
Colorado Court of Appeals Case No. 2012CA2593

CLAIM: Plaintiff alleges that the City of Colorado Springs' pre-petition process, i.e. the IRC and Title Board, are unconstitutional as applied to Charter amendment petitions. Plaintiff further alleges that the City's single subject rule is unconstitutional.

STATUS: Complaint and Summons received August 3, 2012. August 14, 2012 Plaintiff files notice to set hearing. On October 19, 2012 City files motion for summary judgment, which was granted on November 16, 2012. On December 24, 2012 Appellant files notice of appeal in Colorado Court of Appeals. January 15, 2013 Designation of Record filed. January 18, 2013 Appellee files additional designation of record. May 10, 2013 Appellant files his Opening Brief. June 4, 2013 A Motion for leave to participate as Amicus Curiae in Support of Appellant McCarville is filed by Colorado Springs Citizens for Community Rights. A Brief of Amicus Curiae is also filed. June 13, 2013 Appellee files Answer brief. July 1, 2013 Appellant McCarville files his reply brief. July 3, 2013 Court denies brief of Colorado Springs Citizens for Community Rights.

(Total 85.75 hours – White)

CITY ENGINEERING

Contract Management Inc, d/b/a US Roads v. City of Colorado Springs and Pikes Peak Rural Transportation Authority.

El Paso County District Court Case No. 2013CV30652

CLAIM: US Roads was awarded a contract through an Invitation to Bid to perform certain road improvements to Platte Avenue in Colorado Springs (the "Project"). Plaintiff claims City Defendants breached the contract that was executed on July 29, 2011 and received unjust enrichment at the expense of US Roads.

STATUS: July 26, 2013 Summons and Complaint served. August 16, 2013 Defendants City of Colorado Springs and Pikes Peak Rural Transportation Authority files stipulated motion for a two week enlargement of time to file a responsive pleading to Plaintiff's Complaint. **August 29, 2013 City Defendants files Answer with Jury Demand. September 24, 2013 Defendant PPRTA files answer to first claim for relief and motion to dismiss Plaintiff's second and third claims for relief pursuant to C.R.C.P. 12(b)(5). October 15, 2013 Plaintiff files response to Defendant PPRTA's motion to dismiss. November 1, 2013 PPRTA files its reply to its motion to dismiss. November 5, 2013 Court denies PPRTA's motion to dismiss and directs the parties to set a case management conference.**

(Total 155.50 hours – Gendill)

IN THE MATTER OF THE APPLICATION AND REQUEST FOR WAIVER OF THE CITY OF COLORADO SPRINGS FOR AUTHORITY TO FORMALIZE A SHARED USE TRAIL AND CROSSING, INSTALL WARNING DEVICES AND IMPROVED APPROACH AT THE CROSSING OF THE MANITOU & PIKES PEAK COG RAILWAY TRACK ON THE NORTH LAKE MORaine CONNECTOR AT 38 @ 50' 01.6"N, 104@ 59'26.94"W IN EL PASO COUNTY, COLORADO

Public Utilities Commission of the State of Colorado Docket NO. 12A-006R

APPLICATION: The City applies to the Public Utilities Commission for authorization to formalize a shared-use trail and crossing, install warning devices and improved approach at the crossing of the Manitou & Pikes Peak COG Railway track and requesting a waiver of the Commission's rule requiring Pedestrian crossings to be Grade Separated.

STATUS: City files notice of application and petition. Commission order deems application complete, grants application, and grants petition for variance.

(Total 37 hours – Smith)

IN THE MATTER OF THE APPLICATION OF THE CITY OF COLORADO SPRINGS FOR AUTHORITY TO MODIFY AN EXISTING OVERPASS STRUCTURE AT RAILROAD MP 0606.51 (COLORADO SPRINGS BRANCH), USDOT CROSSING #594834V, NEVADA AVENUE IN EL PASO COUNTY, COLORADO

Public Utilities Commission of the State of Colorado Docket NO. 10A-359R

APPLICATION: The City applies to the Public Utilities Commission for authorization for modification and rehabilitation to an existing overpass on Nevada Avenue.

STATUS: May 26, 2010 City files notice of application and petition. July 27, 2010 Commission order deems application complete and grants application. Marc Smith files entry of appearance and submission of construction and maintenance agreement between the City of Colorado Springs and Union Pacific Railroad.

(Total 15 hours – Smith)

Tavis, Betty Sue v. The City of Colorado Springs

El Paso County District Court 2013CV30871

CLAIM: Plaintiff alleges that the City failed to maintain a sidewalk at 601 South Weber Street which caused Plaintiff to trip and fall.

STATUS: August 15, 2013 Summons and Complaint served. September 5, 2013 City files Answer and Affirmative Defenses. **November 6, 2013 City files designation of non-parties.**

(White – Total 41.75 hours – White)

COUNCIL

(OC)

Bruce, Douglas v. City of Colorado Springs and Does I through XX

El Paso County District Court Case Number 2013CV268

CLAIM: Plaintiff alleges unlawful activity by the City regarding Council Benefits, Attorney Compensation, Violations of Issue 300, Sales Tax Vendor Retention, and Utility Turn on Charges, Customer Water Usage, Appointee Review and Appropriation of Salaries and requests proper injunctive and declaratory relief.

STATUS: August 2, 2013 Summons and Complaint served. **August 23, 2013 City files its Answer. September 18, 2013 PERA files motion to intervene. October 25, 2013 PERA files motion to dismiss first cause of action. October 28, 2013 Plaintiff files motion to amend complaint and motion for default judgment against City,**

asserting City being represented by outside counsel illegally. November 13, 2013 City files responses to Plaintiff's motion to amend complaint and motion for default judgment. November 15, 2013 Plaintiff files answer to PERA's motion to dismiss first cause of action. Trial currently scheduled for April 24, 2014.

(Total 70.50 hours - Hayes, Phillips, Hoffman and Carberry / White)

MLP Receiverships, LLC, as Receiver; Probuild Company LLC; and PNC Bank, NA v. The City of Colorado Springs, a Colorado home rule city and municipal corporation; and City Council of the City of Colorado Springs in their official capacity.

El Paso County District Court Case Number 2013CV1973

CLAIM: MLP Receiverships file a Request for Judicial Review under Rule 106(a)(4) and complaint claiming 14th amendment due process, estoppels and taking for City's stopping of permit construction of Dublin Townhomes and refusal to approve amended application.

STATUS: April 23, 2013 Complaint filed with motion to certify the record. May 13, 2013 Plaintiff files Amended Complaint. May 17, 2013 City files waiver and acceptance of service; Plaintiff files motion to consolidate or in the alternative motion to transfer rule 106 action to Division 19 with PNC Bank, et al. v. Heritage Homes, et al. El Paso County Case Number 2012CV3256. June 7, 2013 City files Answer to First Amended Complaint and response in opposition to motion to certify the record and response to motion to consolidate and a partial motion to dismiss. June 13, 2013 MLP Receivership files replies to City responses regarding motion to certify record and motion to consolidate. June 19, 2013 Defendant City files motion for leave to file sur-reply re: motion to certify the record for C.R.C.P. 106(a)(4). June 20, 2013 City files joint motion to bifurcate and for partial stay. June 27, 2013 Court grants order which stipulates transferring Rule 106 action to Division 19. August 14, 2013 Court grants order to bifurcate and for partial stay; Court orders Defendants shall prepare, certify and file docs within 60 days for certification of the record. **September 12, 2013 Defendants file certified record of proceedings. October 24, 2013 Plaintiff files opening brief and request for oral argument.**

(Total 173.75 hours - Gendill / McCall)

Sladek, Dennis v. City of Colorado Springs, Colorado a Colorado municipality, City of Colorado Springs City Counsel, and Stephen Bach, et al

El Paso County District Court Case No. 2013CV254;

United States District Court Case No. 2013CV02165-PAB-MEH

CLAIM: Plaintiff brings claims of process violation, equal protection violation, negligence, etc. due to Council's vote to ban legal recreational marijuana dispensaries in the city limits of Colorado Springs.

STATUS: Summons and Complaint served on July 31, 2013. August 12, 2013 Plaintiff files Amended Complaint. August 13, 2013 Defendant City of Colorado Springs files Notice of Removal to the Federal Court. **September 11, 2013 City Defendants file motion to dismiss Plaintiff's Amended Complaint. October 2, 2013 City Defendants file motion for protective order from discovery and to vacate scheduling conference. October 3, 2013 Defendants Green Mountain Falls, Monument, Woodland Park, and Fountain file motion to dismiss. October 7, 2013 Court issues order granting**

protective order from discovery and vacating scheduling conference. October 15, 2013 El Paso County files motion to dismiss. November 18, 2013 Town of Palmer Lake files motion to dismiss. (Total 99 hours - Turner)

FACILITIES

(OC)

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

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.**

(Total 46.75 hours – Rob Zavaglia at Treece Alfrey Musal, P.C. / White)

FINANCIAL AND ADMINISTRATIVE SERVICES

(CC)

In RE Banning Lewis Ranch Company, LLC

United States Bankruptcy Court for the District of Delaware Chapter 11 Case No. 10-13445 (KJC)

and

In RE Banning Lewis Ranch Development I & II, LLC

United States Bankruptcy Court for the District of Delaware Chapter 11 Case No. 10-13446 (KJC) (Jointly administered).

CLAIM: The Banning Lewis Ranch Co. LLC and Banning Lewis Ranch Development I & II LLC, filed Chapter 11 petitions in the U.S. Bankruptcy Court in Delaware, citing more than \$242 million in debts. The two companies own the 21,400-acre ranch that stretches from Woodmen Road to Fontaine Boulevard between Marksheffel and Meridian roads.

STATUS: Court approved sale of property to Ultra Resources; action moved to Colorado bankruptcy court to determine whether City land-use agreements including the

BLR annexation agreement should remain in effect. On May 1, 2012, the City, Ultra and Debtor BLRC filed a joint motion to hold the adversary proceeding in abeyance until November 1, 2012, while the parties attempt to resolve the matter consensually. July 25, 2012 USBC District of Delaware Court orders the Debtor The Banning Lewis Ranch Company, LLC to sell the 72 acre parcel that was formerly the directors' parcel to Bahr Holdings LLC. Court grants the parties request to hold the Ultra Adversary Proceeding in abeyance until April 1, 2013 and requires the parties to file another status report not later than April 1, 2013. On April 1, 2013, the City and Ultra filed a Second Joint Status Report and Motion for Further Stay of Adversary Proceeding (the "Second Joint Motion"). In the Second Joint Motion, the City and Ultra requested a further stay of all proceedings until July 1, 2013. By order entered on April 3, 2013, the Court granted the Second Joint Motion, stayed the adversary proceeding until July 1, 2013, and directed the parties to file another status report no later than July 1, 2013. On June 28, 2013, the City and Ultra filed a Third Joint Status Report and Motion for Further Stay of Adversary Proceeding (the "Third Joint Motion"). In the Third Joint Motion, the City and Ultra requested a further stay of all proceedings until November 1, 2013. By order entered on July 1, 2013, the Court granted the Third Joint Motion, stayed the adversary proceeding until November 1, 2013, and directed the parties to file another status report no later than November 1, 2013. **On November 1, 2013, the City and Ultra filed the Fourth Joint Status Report and Motion For Further Stay Of Adversary Proceeding (the "Fourth Joint Motion"). In the Fourth Joint Motion, the City and Ultra requested a further stay of all proceedings until January 14, 2014. By order entered on November 4, 2013, the Court granted the Fourth Joint Motion, stayed the adversary proceeding until January 14, 2014, and directed the parties to file another status report not later than January 14, 2014.**

(Total 313.5 hours - William Hazeltine, Sullivan, Hazeltine, Allison, LLC (Delaware) and Peter Cal, Sherman and Howard, Denver; City Attorney's Office).

MEMORIAL HOSPITAL

(OC)

City of Colorado Springs, a Colorado Home Rule City and Municipal Corporation v. Public Employees' Retirement Association of Colorado, a Body Corporate and Instrumentality of the State of Colorado v. Memorial Health System

Denver County District Court Case No. 2012CV5714

CLAIM: Parties dispute the applicability of the Termination Provisions of the Public Employees' Retirement Association Act, C.R.S. §§ 24-51-101 et seq. (the "Act") to the lease of Memorial Hospital. The City of Colorado Springs ("City") claims the Termination Provisions do not apply to the transaction and, accordingly, that it does not owe Public Employees' Retirement Association ("PERA") any amounts under the Act. City seeks declaratory judgment.

STATUS: On September 13, 2012 City files Complaint. PERA files answer to complaint and brings counterclaim / third-party complaint against Memorial Hospital. Court grants joint stipulation for entry of escrow agreement. March 6, 2013 Parties file joint motion for entry of stipulated protective order, which was granted on March 9, 2013. April 11, 2013 Plaintiff City files motion to enforce agreement. May 2, 2013

PERA files opposition to City of Colorado Springs' motion to enforce agreement. May 9, 2013 City files reply in further support of motion to enforce agreement. May 10, 2013 PERA files motion for summary judgment. June 4, 2013 Court issues order denying Plaintiff's motion to enforce agreement. June 14, 2013 Plaintiff City and Third Party Defendant Memorial Health System file cross motion for summary judgment on all claims. June 28, 2013 PERA files reply in support of Summary Judgment Motion; PERA also files opposition to City of Colorado Springs and Memorial Health System's Summary Judgment Cross-Motion on all claims. July 12, 2013 Plaintiff City and Third Party Defendant Memorial Health System file reply in support of cross motion for summary judgment on all claims. July 24, 2013 Court denies both the Defendant and the Plaintiff's motion for summary judgment. July 25, 2013 Court denies motion for bifurcation of trial. July 27, 2013 Court issues order granting stipulated amended protective order. Aug 7, 2013 Court grants continuance of trial to 3 weeks beginning March 10, 2014. August 13, 2013 Parties file joint motion to hold for fourteen days further rulings and briefings. **August 28, 2013 PERA files reply in support of its motion to quash subpoena on non-party Cavanaugh MacDonald Consulting ("CavMac").** September 17, 2013 the Parties file a joint motion for the appointment of the Ret. Hon. Harlan Bockman to serve as appointed judge for the remainder of the case at the trial court level. September 18, 2013 The Honorable Michael L. Bender appoints the Ret. Hon. Harlan R. Bockman as an appointed judge. October 18, 2013 City files Brief in further support of PERA's obligation to disclose info considered by CavMac. October 18, 2013 City and Memorial file renewed motion for summary judgment on all claims; PERA also files motion for summary judgment as to application of the termination provisions; PERA files Motion for Determination that Memorial Must Exhaust Its Administrative Remedies as to the PERA Board's Calculation of Its Withdrawal Liability. October 28, 2013 City and Memorial file responses in opposition to both PERA's motion for determination that Memorial must exhaust administrative remedies and PERA's summary judgment motion as to the application of the termination provisions; PERA files its opposition to the City and Memorial's renewed motion for summary judgment and its reply in support of its summary judgment motion as to the application of termination provisions. November 11, 2013 Court issues order denying PERA's motion for determination that Memorial must exhaust administrative remedies.

(Total 179.50 hours – Turner / John Cook, Joseph Lambert, Hogan Lovells US LLP)

(IC)

Elliott, Mark T., as Conservator of Morgan Harper, a Minor v. Norman G. Cole, Jr., M.D., and Memorial Health System, d/b/a Memorial Hospital Corporation

El Paso County District Court Case No. 2011CV6167

CLAIM: Plaintiff alleges that in February, 1998, the mother of minor child Morgan Harper developed complications during her labor and delivery of Plaintiff Harper while under the care of Defendant Cole and employees of Memorial Health System. Plaintiff alleges that as a result of these complications and the negligent care rendered to the mother, Plaintiff Harper suffered and continues to suffer from several conditions and has required numerous surgeries and additional treatments and therapies.

STATUS: December 7, 2011 Summons and complaint received. January 13, 2012 Memorial Hospital files its Answer. Discovery has commenced. (DeLine at Retherford, Mullen, and Moore)

(IC)

Lately, Shavonna v. UCH-MHS, d/b/a Memorial Health System; City of Colorado Springs, d/b/a Memorial Hospital; City of Colorado Springs d/b/a Memorial Health System; Memorial Health System, Inc.; and Memorial Hospital Corporation

El Paso County District Court Case Number 2013CV130

CLAIM: Plaintiff claims that due to Defendant's negligence she slipped and fell in a puddle in Memorial Hospital causing injuries.

STATUS: March 15, 2013 Summons and Complaint served. Venue was recently changed from Adams County to El Paso County. **Discovery has commenced and a Motion for Cost Bond is pending (Plaintiff now resides in Georgia, so her deposition will entail some additional costs). Trial is set for March 4, 2014.**

(Watts at Retherford Mullen)

(IC)

Lucas, George v. Memorial Health System, Inc., the City of Colorado Springs and the State of Colorado

El Paso County District Court Case No. 2013CV30275

CLAIM: Plaintiff claims injuries, pain and suffering due to a trip and fall over raised gutter on Memorial's premises.

STATUS: June 27, 2013 Summons and Complaint served. Answer filed July 16, 2013. **Trial set for May 5, 2014.**

(Total 1.5 hours - Watts at Retherford, Mullen, and Moore)

(IC)

Maricevic, Kathryn, Zebulon Kittle, and Isabella Maricevic-Kittle v. Hammond, MHS, Board of Regents U of Co, UCH

El Paso County District Court Case No. 2012CV5443

CLAIM: Plaintiffs allege that in November 2010, a delayed delivery at Memorial Hospital (North) caused a brain injury to the infant. Plaintiffs allege that prior to delivery, fetal monitoring strips demonstrated that the infant was in distress and therefore the infant should have been delivered promptly. Plaintiffs allege that, as a result of the delayed delivery of the infant, the infant [Plaintiff Isabella] has suffered a brain injury and has sustained permanent brain damage, developmental delays, and permanent neurological impairment.

STATUS: July 18, 2013 Summons and Complaint served. **Memorial filed its Answer on August 19, 2013. Discovery has commenced.**

(DeLine at Retherford, Mullen & Moore)

Reed, Reginald v. Memorial Health System; Dale Agthe, Assistant City Attorney for Memorial Health System; and El Paso County Sheriff's Office

El Paso County District Court Case No. 11CV172;

Colorado Court of Appeals Case Number 12CA503

CLAIM: Plaintiff, a pro se prisoner, filed this action seeking access to the medical records of his victim. Plaintiff alleges that these records are criminal justice records and subject to inspection under C.R.S. §24-72-303. The City denied his request for the records. In addition, a search revealed the records do not exist.

STATUS: July 21, 2011 Summons and complaint received. August 10, 2011 City filed motion to dismiss. August 11, 2011 County filed motion to dismiss or, in the alternative, motion for summary judgment. September 12, 2011 Plaintiff filed response to Defendant's motion to dismiss. October 27, 2011 Court issued order granting City's motion to dismiss. October 28, 2011 Court issued order granting County's motion to dismiss. March 6, 2012 Plaintiff filed Notice of Appeal. Plaintiff has filed an Opening brief and failed to serve the City. On February 26, 2013 Plaintiff served the City pursuant to Court's order. April 3, 2013 Answer Brief filed by Memorial Health System and Dale R. Agathe. May 24, 2013 Plaintiff files response to Defendant's Answer Brief (Reply Brief). **October 24, 2013 Court of Appeals affirms the District Court's ruling.**

(Total 62.25 hours – Lessig)

(IC)

Ruminski, Nancy v. City of Colorado Springs d/b/a Memorial Hospital; and UCH

El Paso County District Court Case No. 2013CV1044

CLAIM: In February of 2011, Plaintiff presented to Memorial Hospital North ED for treatment of hives and tongue swelling. Due to continued symptoms, the Plaintiff returned to Memorial Hospital North the next day and was admitted for care. On February 9, 2011, the Plaintiff alleges that she received the wrong dose of medication. Due to this medication error, Plaintiff is alleging past and future physical and mental pain and suffering, loss of enjoyment of life, loss of income and economic damages, as well as physical and cognitive impairment.

STATUS: Plaintiff served her Complaint on February 6, 2013 and MHS filed its Amended Answer on April 12, 2013. Discovery has commenced.

(DeLine at Retherford, Mullen & Moore)

MUNICIPAL COURT

Bass, Steven v. The City of Colorado Springs

El Paso County District Court Case Number 2012CV365

CLAIM: Steven Bass appeals his Municipal Court Case 11M32022 after the jury found him guilty of violating section 9.6.110 of the Colorado Springs City Code "Camping on Public Property." Appellant Bass argues that the Anti-Camping ordinance is unconstitutional both facially and as applied and the trial court erred by preventing Bass from testifying that he was engaged in expressive activity. Appellant Bass requests a remand with instructions to reverse his conviction for violating the ordinance and to dismiss the charges against Mr. Bass.

STATUS: March 1, 2013 Appellant Steven Bass files Opening Brief. April 22, 2013 Appellee City files Answer Brief. May 13, 2013 Appellant Bass files Reply Brief. August 1, 2013 District Court affirms Bass's Municipal Courts convictions. **September 12, 2013 Bass files Petition for Writ of Certiorari to the Colorado Supreme Court. September 26, 2013 City files Opposition Brief to Petition for Writ of Certiorari. October 3, 2013 Bass files reply brief in support of petition. October 8, 2013 Notice of Electronic Certified record to the Colorado Supreme Court.**
(Total 104 hours - Turner / J. Smith)

City of Colorado Springs Municipal Court v. Karl O'Brian Dent
El Paso County District Court Case Number 13CV194

CLAIM: Appellant Dent claims the court erred in allowing the case to move to trial and there was no evidence of speeding.

STATUS: June 7, 2013 Appellant Dent files Notice of Appeal and Designation of Record. August 6, 2013 Appellee City files Motion to Dismiss. **September 3, 2013 Court issues order granting City's motion to dismiss.** (Total 2.75 hours – Cho)

PARKS, RECREATION, AND CULTURAL SERVICES

Daniel , Marilyn v. Defendant City of Colorado Springs

El Paso County District Ct. No. 2011CV2157;
Colorado Court of Appeals Case No. 2011CA1772;
Supreme Court Case No. 2012SC908

CLAIM: Plaintiff alleges that on October 7, 2009 she fell breaking her hip / femur as a result of catching her foot in hole at Valley Hi Golf Course parking lot. Claims are for premises liability and negligence.

STATUS: City filed a motion to dismiss based upon statutory immunity. Motion was denied by District Court and has been appealed to Court of Appeals. Case fully briefed and argued. Court of Appeals issued an opinion and notice remanding case back to District Court with directions to dismiss Plaintiff's complaint against the City.

Plaintiff filed Petition for Writ of Certiorari on December 3, 2012. City filed opposition brief to Petition for Writ of Certiorari on December 18, 2012. December 21, 2012 Court grants amicus brief filed by Colorado Trial Lawyers. January 7, 2012 Petitioner Marilyn Daniel files reply in support of Petition for Certiorari. April 29, 2013 The Petition for Writ of Certiorari is granted regarding whether a public golf course parking lot is a "public facility in any park or recreation area." Petitioner's Opening Brief is due June 11, 2013. June 4, 2013 Petitioner files Opening Brief; also a Motion for leave to file and Amicus Brief and the Amicus Brief is filed by the Colorado Trial Lawyers Association. June 21, 2013 Court of Appeals accepted Colorado Trail Lawyers Amicus Brief. July 30, 2013 Respondent City files Answer Brief; Motion of Colorado Springs Municipal League for leave to participate as Amicus Curiae and to file Amicus Brief; filed along with Amicus Brief. August 19, 2013 Petitioner Marilyn Daniel files her Reply Brief. **Oral Argument held October 29, 2103 at 10:30 a.m.**

(Total 470.5 hours – Lamphere)

PLANNING

WOODMEN HEIGHTS METROPOLITAN DISTRICT NO. 1, WOODMEN HEIGHTS METROPOLITAN DISTRICT NO. 2, AND WOODMEN HEIGHTS METROPOLITAN DISTRICT NO. 3, TITLE 32 METROPOLITAN DISTRICTS; AND KF 103-CV, LLC, A COLORADO LIMITED LIABILITY COMPANY v. PRAIRIE VISTA, LLC, A COLORADO LIMITED LIABILITY COMPANY; ROCKY MOUNTAIN COMMUNITY LAND TRUST, A COLORADO NON-PROFIT CORPORATION; PIKES PEAK HABITAT FOR HUMANITY, INC., A COLORADO NONPROFIT CORPORATION; O WILLIAM M. PECK; DARRELL H. OLIVER, SR.; KELLY ANN M. OLIVER; WILLIAM MARCHANT; MAUREEN M. MARCHANT; MARILYN J. HOWELL, AS TRUSTEE OF THE MARILYN J. HOWELL TRUST; C. ARLENE NANCE; SUSAN HANSON; THE CITY OF COLORADO SPRINGS, A COLORADO HOME RULE CITY AND MUNICIPAL CORPORATION; AND ALL UNKNOWN PERSONS WHO CLAIM ANY INTEREST IN THE SUBJECT MATTER OF THIS ACTION v. (THIRD PARTY PLAINTIFF KF 103-CV, LLC, A COLORADO LIMITED LIABILITY COMPANY v. THIRD PARTY DEFENDANTS RS HOLDING COMPANY, LLC, F/K/A INFINITY HOLDING COMPANY, LLC, A COLORADO LIMITED LIABILITY COMPANY; H2 LAND CO, LLC, A COLORADO LIMITED LIABILITY COMPANY; PAUL HOWARD; JONATHAN HOWARD; SCOTT HENTE; AND ROBERT ORMSTON

El Paso County District Court Case NO. 08CV4553

CLAIM: This issue arose between the developers of a subdivision and property owners over the placement of a roadway. Initially, the City was added as a party to this matter as a party in interest. Later, Defendant Peck added City of Colorado Springs on a third amended counterclaim and third party complaint of Defendant William Peck. Peck's only claim against the City was an action for declaratory judgment that the City would approve any restoration plan ordered by the trial court.

STATUS: An Eight Day Trial Commenced October 23, 2012. November 26, 2012 Court issues order stating that City of Colorado Springs must approve court-approved partial restoration plan to Ski Lane and Sopressa Road. Court issues order judgment in favor of the Neighbors (Marchant, Howell, Nance, Hanson Oliver, and Peck) and that all other parties are jointly and severally liable to the Neighbors. December 10, 2012 Neighbors file Motion to Alter or Amend Findings, Conclusions and Judgment. Trial is scheduled for Plaintiff v. Third Party Defendant for January 24, 2013. Court grants stipulation for settlement as to KF 103-CV's Third Party Claims against the Infinity Parties on January 24, 2013. February 8, 2013 Court issues an order pending post-trial motions denying full restoration, that no party obstruct Ski Lane as an access easement, that Nance's motion to impose an order to replace or pay for removed dirt on parties other than RS Construction and Infinity Land is denied, that no recovery costs be passed along, denial of damage awards be reset, Court denies attorney fees, interest will accrue at 8% and in response to WHMD's motion for clarification the Court states that WHMD is jointly liable to partially restore Ski Lane and Sopressa and is not liable for damage awards to neighbors. City has no financial obligations. **Parties file proposed orders for final judgment. October 30, 2013 Third Party Defendants file motions for reconsideration of October 15, 2013 Judgment and for order Nunc Pro Tunc**

concerning motion for clarification re October 15, 2013 Judgment and Motion for Reconsideration re Allocation of Liability of H2 Land Co., et al.; Defendants and William Peck file bill of costs. November 14, 2013 Plaintiff/Third-Party Plaintiff files notice of submission of completed construction plans pursuant to Court's order of October 15, 2013. November 15, 2013 KF 103-CV files response in opposition to motion for reconsideration re allocation of liability.
(Total 311.5 hours – White)

POLICE

People of the State of Colorado v. Robert Crouse

Colorado Court of Appeals Case No. 2012 CA2298

STATUS: City of Colorado Springs files a motion to either be an added party or in the alternative leave to file an amicus brief. City files amicus brief along with motion. July 26, 2013 Defendant files Answer Brief. **August 29, 2013 People file Reply Brief. October 24, 2013 Appellant files notice of supplemental authority.**

(Total 38.75 hours - Lamphere)

Crouse, Robert C. v. The City of Colorado Springs, a Colorado governmental entity; the City of Colorado Springs Police Department, a local government entity; Peter Cary, in his official capacity as the Chief of the Colorado Springs Police Department; El Paso County, a Colorado governmental entity, Dan May, in his official capacity as the District Attorney for El Paso County, and Nick Bayne in his official and individual capacity and other unknown member of the Colorado Springs Police Department, in their official and individual capacities

El Paso County District Court Case No. 2013CV2055;

Removed to United States District Court Case No. 2013CV1786-WYD-KMT

CLAIM: Plaintiff brings 1983 and 1988 civil rights claims stemming allegedly from Defendants' violations of Plaintiffs 5th and 14th amendment rights and seeks damages and attorney's fees due to the destruction of seized marijuana.

STATUS: June 17, 2013 Summons and Complaint served. June 25, 2013 Anne Turner files entry of appearance for City Defendants. July 8, 2013 Defendants file Notice of Removal to US District Court. July 15, 2103 City Defendants file Motion to Dismiss; County Defendants file motion to dismiss. July 31, 2013 Plaintiff files First Amended Complaint **omitting federal claims.** August 5, 2013 Court denies as moot both City Defendants' and County Defendants' motions to dismiss. August 14, 2013 Defendants file joint motion to dismiss Plaintiff's First Amended Complaint; **Plaintiff files motion to remand to State Court. September 4, 2013 Plaintiff files response to Defendants' joint motion to dismiss. September 25, 2013 Court grants a stipulated motion to vacate scheduling conference and associated deadlines. November 5, 2013 Court issues order remanding case to State Court as no federal claims asserted in amended complaint; Defendants' motion to dismiss denied as moot.** (Total 93.0 hours – Turner)

Edmond, Michael Sean v. City of Colorado Springs, et al.

El Paso County District Court Case No. 2007CV332

CLAIM: Plaintiff alleges that false statements were made by Defendant William Burrell for the search warrant issued by the Court on November 17, 1999, which caused Plaintiff's property to be seized and subsequently destroyed. Plaintiff claims violation of his 4th, 5th, 6th, 8th and 14th Amendment rights and state law claims. Plaintiff also requests compensatory damages, punitive damages, and declaratory relief.

STATUS: Case remanded back to El Paso County District on March 15, 2012 with instruction to serve the parties. March 27, 2012 Summons, Notice of Appeal, and Mandate served on other parties. April 18, 2012 Court orders Defendants Terry Maketa, Sheriff of El Paso County and Brett Speiers to be added as party litigants. **October 9, 2013 Complaint and Summons served on City. October 22, 2013 City files motion to dismiss. October 30, 2013 Plaintiff files motion for leave to file amended complaint. November 15, 2013 Court issues order denying Plaintiff's motion for leave to file amended complaint.**

(Total 66.50 hours – Lamphere)

Guy, Kathryn v. Nathan Jorstad, Richard Myers, Steve Cox, and City of Colorado Springs

United States District Court Case No. 12-CV-01249-RM-KMT

CLAIM: Plaintiff claims unnecessary use of excessive force resulting in death.

STATUS: May 15, 2012 Waiver of service of summons and Complaint received. July 9, 2012 Defendants Myers, Cox and City file motion to dismiss. August 14, 2012 Defendants file motion for protective order from discovery and to vacate scheduling order deadlines, which motion is granted; discovery is stayed until the court rules on Defendants' motion to dismiss. November 2, 2012 Court allows Plaintiff to amend complaint; Amended complaint filed. November 16, 2012 Defendants file motion to dismiss Plaintiff's amended complaint. January 23, 2013 Plaintiff files response to City's motion to dismiss. February 6, 2013 Defendants file reply to their motion to dismiss. **June 17, 2013 Parties file joint status report.**

(Total 369.75 hours – Turner)

Hampton, Nathaniel v. Officer Evans, Officer Nelson, Officer Cherry, Detective Goodwin, City of Colorado Springs, and Other Unknown Police Officers

United States District Court Case No. 11-cv-01415-RM-CBS

CLAIM: Plaintiff, a pro se prisoner, alleges that on July 6, 2010, officers of the Colorado Springs Police Department conducted an unreasonable strip search and deprived him of his property without due process by auctioning his truck from impound while he was in jail.

STATUS: October 19, 2011 Summons and complaint received. Defendants file successive motions to dismiss. September 26, 2012 Court orders that Plaintiff may file an amended complaint containing claims based on the alleged strip search and a procedural due process claim against the City. December 7, 2012 Plaintiff files his 4th amended prisoner complaint. January 14, 2013 Defendants file motion to dismiss Plaintiff's 4th amended prisoner complaint. February 6, 2013 Plaintiff files response to Defendant's motion to dismiss 4th amended complaint. February 20, 2013 Defendant files

reply in further support of its motion to dismiss. April 16, 2013 Magistrate Judge issues recommendation that City's motion to dismiss Plaintiff's Fourth Amended Complaint be granted and to dismiss claims one, three, and five and that the case proceed on claim two against Defendant Evans for violations based on strip search and claim Four against the City based on the notice provided to Mr. Hampton prior to the sale of his truck. May 1, 2013 Plaintiff files objections to the Magistrate Judge's recommendation. May 15, 2013 Defendants file response to Plaintiff's objections to the Magistrate Judge's recommendation. May 23, 2013 Parties file joint status report to the Court. May 28, 2013 Plaintiff files reply to Defendant's response to objections to magistrate's recommendations.

(Total 331.25 hours – Turner)

Jones, Kevin Francis v. Marcus Lehmkuhl, City of Colorado Springs, Colorado, R.A. Yohn, Al Harmond, Bret Poole, and One to Ten Unknown Defendants to be Identified Through Discovery and Trial, Sued Individually and in their Official Capacities

United States District Court Case No. 11-CV02384-WYD-CBS

CLAIM: Plaintiff alleges that the police lacked probable cause to search his house for drugs because of omissions and false statements by Defendant Lehmkuhl in his probable cause affidavits. Plaintiff claims searches conducted pursuant to the warrants violated his First, Fourth, Fifth, Sixth and Fourteenth Amendment rights.

STATUS: September 12, 2011 Complaint filed with the U.S. District Court. January 6, 2012 Plaintiff files (second) amended complaint. January 18, 2012 Court orders dismissal of the following Defendants originally named in the lawsuit: Richard Myers, Lionel Rivera, the Colorado Springs Police Department, El Paso County, Colorado, and the El Paso County Sheriff's Department. January 30, 2012 Summons and Complaint received. March 22, 2012 Defendants file motion to dismiss. May 29, 2012 Plaintiff files response to Defendants' motion to dismiss. June 12, 2012 Defendants file reply to motion to dismiss. July 30, 2012 Plaintiff files motion for leave to file third amended complaint. August 13, 2012 Defendants file response to Plaintiff's motion for leave. Motions hearing took place January 31, 2013 at 1:30 p.m.; Magistrate recommends that the Court deny Plaintiff's motion for leave to file Third Amended Prisoner Complaint and will issue a written recommendation regarding Defendants Motion to Dismiss. April 26, 2013 Magistrate issues recommendation on Defendant's Motion to Dismiss **that certain claims be dismissed with prejudice and certain claims and defendants be dismissed without prejudice.** June 18, 2013 Plaintiff files objections to magistrate's recommendations. June 26, 2013 Defendants file motion to strike objections. July 1, 2013 Court grants Defendants' motion and strikes Plaintiff's objections. July 9, 2013 Plaintiff files motion for reconsideration of order striking objections. July 26, 2013 Defendants file response to motion for reconsideration. **September 27, 2013 Court affirms and adopts recommendations of U.S. Magistrate Judge. City's motion to dismiss is denied in part and granted in part, dismissing without prejudice with leave to re-file in a Third Amended Complaint claims against Defendants Yohn, Harmon and Poole and certain of claims one, four, seven, eight and ten. The remaining claims are dismissed with prejudice. Plaintiff may re-file only those claims dismissed without prejudice in a Third Amended Complaint**

by October 25, 2013. October 23, 2013 Plaintiff files third amended complaint. November 13, 2013 City files motion to dismiss Plaintiff's third amended complaint. (Total 222.0 hours – Turner)

Lord, Frank v. Colorado Springs Police Officers Jason Hall and Richard Hayes, and Unknown Colorado Springs Police Officers

United States District Court Case No. 10-CV-02695-KLM;

United States Court of Appeal for the Tenth Circuit Case No. 12-1331

CLAIM: Plaintiff alleges that on July 26, 2010, he pulled his vehicle over in Colorado Springs when he observed an emergency vehicle in the area with its lights and sirens activated. Plaintiff alleges that after the emergency vehicle pulled in behind him high intensity white lights were directed at his vehicle. Plaintiff then he left his vehicle and walked toward voices he heard yelling at him. Plaintiff alleges that someone then grabbed his arm and threw him face first into the pavement, causing him to lose consciousness. Causes of action include unlawful arrest, excessive force, assault and battery.

STATUS: November 10, 2010 Summons and complaint received. November 30, 2010 City files answer and affirmative defenses. June 8, 2011 Settlement conference held; no settlement reached. June 10, 2011 City files motion for civil gag order, which was denied by the Court on June 28, 2011. Plaintiff filed motion to amend complaint but Court denied based on recommendation of the magistrate. September 1, 2011 City files motion for summary judgment. November 3, 2011 Plaintiff files response to City's motion for summary judgment. November 17, 2011 City files reply to Plaintiff's response to City's motion for summary judgment. Five-day jury trial was scheduled for August 20, 2012. July 31, 2012 Court issues order granting City's motion for summary judgment, vacating trial for August 20, 2012 and dismissing case. August 2, 2012 Court enters final judgment for Defendants and against Plaintiff; Defendants shall be awarded costs. August 7, 2012 City files stipulated motion for costs. August 27, 2012 Plaintiff files Notice of Appeal. November 13, 2012 Appellant files his opening brief. December 13, 2012 Appellees file Answer Brief. January 2, 2013, Appellant files Reply Brief. Oral argument in the Tenth Circuit Court of Appeals argued on March 6, 2013. April 2, 2013 10th Circuit files Order and Judgment affirming the district court's Fourth Amendment claims and remand case back to district court with instructions to vacate its judgment and re-enter judgment dismissing the state-law claim without prejudice. April 24, 2013 Mandate issued. July 1, 2013 Lord as Petitioner files Petition for Writ of Certiorari. **October 7, 2013 Supreme Court of the United States denied Plaintiff's petition for writ of certiorari.**

(Total 652.0 hours – White)

Peters, Duaine v. City of Colorado Springs

El Paso County District Court Case No. 2013CV2222

CLAIM: Plaintiff settled his claims with El Paso County for \$150,000 arising from a training accident on January 6, 2012. Plaintiff now seeks declaratory relief and a Jorgensen Hearing to determine the proper apportionment of the settlement proceeds between Plaintiff Peters, a CSPD Officer and the City.

STATUS: May 15, 2013 Plaintiff files Complaint. May 20, 2013 City files waiver of service. June 10, 2013 City files Answer and Affirmative Defense to Complaint for declaratory relief and request for Jorgensen hearing. Jorgensen Hearing scheduled for August 16, 2013. August 13, 2013 Parties file witness list; Defendant files motion to strike expert testimony. August 25, 2013 Plaintiff files motion to reopen the Jorgensen Hearing. **Jorgensen Hearing held October 4, 2013. Court enters order allocating settlement and does not apply the Common Fund doctrine.**
(Total 134.50 hours – Lamphere)

Small, Tyron Duante v. District Attorney Melissa Young, Detective Jeff Huddleston, Detective Marc Chacon, and Officer Daniel Thompson

United States District Court Case No. 13-CV-001075-REB-CBS

CLAIM: Plaintiff claims that Defendants conducted an improper investigation and conspired to destroy evidence by extreme and outrageous conduct regarding sexual assault charges against Plaintiff. Plaintiff makes 4th Amendment violation claims of malicious prosecution, abuse of process, and destruction of evidence.

STATUS: April 22, 2013 Plaintiff files Complaint. An Amended Complaint was filed on May 28, 2013. June 14, 2013 CSPD served with Summons and Complaint. July 2, 2013 City Defendants file motion to dismiss. July 2, 2013 Defendant Young files motion to dismiss amended complaint; City Defendants file motion to dismiss. **October 10, 2013 United States Magistrate Judge makes recommendation that the Defendants' motion to dismiss amended complaint be granted. October 31, 2013 Court issues order adopting recommendation of magistrate judge and orders that Plaintiff's claims be dismissed with prejudice as barred by the statute of limitations.**
(Total 48.25 hours – Gendill / McCall)

Sturgis, John v. Sergeant Brian Cummings, individually; Richard Hallman, individually; Detective Donald Chagnon, individually; Sergeant Craig Simpson, individually; City of Colorado Springs

United States District Court Case Number 2013CV01109

CLAIM: Plaintiff was arrested as a suspicious person in connection to a homicide. Plaintiff claims false arrest and excessive force, along with injuries to his shoulders.

STATUS: April 25, 2013 Plaintiff files civil rights complaint with request for trial by jury. May 3, 2013 Defendants file acceptance of service. June 7, 2013 City Defendants file answer to amended complaint and motion to dismiss. June 21, 2013 Plaintiff files response to City's motion to dismiss. July 2, 2013 Defendants files reply in support of their motion to dismiss. July 10, 2013 Plaintiff files supplement to its response to Defendant's motion to dismiss. **Discovery has commenced. November 15, 2013 Plaintiff files supplement to his response to the City's motion to dismiss.**
(Total 321.25 hours - White)

Wojdacz, Elizabeth v. Officer John Ireland, Patrick Miller, and Penrose-St. Francis Healthcare

United States District Court Case No. 12-cv-01483

CLAIM: Plaintiff alleges that the Colorado Springs Police Department and Defendants Grady, Officer Ireland failed to investigate multiple situations and file charges.

STATUS: June 26, 2012 Received copy of Complaint and Civil Cover Sheet. August 2, 2012 Plaintiff files amended complaint. City files motion to dismiss amended complaint or quash service, which is pending before the Court. Defendant Miller files Answer to amended complaint and jury demand; Defendant Penrose St. Francis files answer to amended complaint; Gary Norman files answer to Plaintiff's amended complaint. November 30, 2012 Defendant Penrose submits an amended motion to dismiss and for judgment on the pleadings. January 3, 2013 Recommendations of the United States magistrate judge entered regarding the City's motion to dismiss: All claims except the 4th amended against Officer Ireland should be dismissed. January 29, 2013 Defendant Penrose files reply to its motion to dismiss and for judgment on the pleadings. February 22, 2013 City files reply to Plaintiff's objections to magistrate's recommendations. On February 25, 2012, Court overrules objections and adopts the recommendation of the US Magistrate Judge. The City's motion to dismiss is granted in part and denied in part. Plaintiff's claims under Colorado Organized Crime Control Act, First Amendment, and Fourteenth Amendment against defendants Colorado Springs Police Department, Commander Brian Grady, and Officer John Ireland are dismissed without prejudice. Further Fourth Amendment against Colorado Springs Police Department and Commander Brian Grady are dismissed without prejudice. March 4, 2013 Magistrate Judge makes recommendation to grant both Penrose St Francis and Patrick Miller's motion to dismiss. March 11, 2013 Defendant Ireland files Answer to Amended Complaint. April 4, 2013 Court issues order overruling objections and adopting magistrate's recommendation dismissing Defendant's Miller and Penrose St Francis and judgment is entered in favor of Miller and Penrose dropping them as parties to this case. April 26, 2013 Defendant Hudson files response to default judgment and motion to dismiss all counts against Defendant Cliff Hudson which is denied without prejudice and stricken by the Court on April 30, 2013. **August 30, 2013 Officer John Ireland files motion for summary judgment. September 23, 2013 Plaintiff files response to Officer Ireland's motion for summary judgment. October 17, 2013 Magistrate judge files his recommendation that Officer Ireland's motion for summary judgment be denied. October 31, 2013 City files objection to recommendation to magistrate judge.**

Total 428.75 hours – Lamphere)

Wojdacz, Elizabeth v. Robert E. Blackburn; Michael E. Hegarty; Erik Lamphere; Kim DeLine; Michael Watts; Retherford, Mullen & Moore; Lindsey Topper; Colorado Springs City Police Department; Joel Kern; W. Lambert; Lt. Scott Whittington; Medina General Hospital; Akron Children's Hospital Medical Center of Akron; Ashland County Department of Human Services; and City of Colorado Springs

United States District Court Case No. 13-CV-01738-MSK

CLAIM: Plaintiff claims that Defendants violated Constitutional rights during the first case of a previous lawsuit filed with the United States District Court Case No. 12-CV-01483.

STATUS: July 17, 2013 Plaintiff served Summons and Complaint to Attorney Erik Lamphere. August 1, 2013 Lindsey Topper files Answer to Complaint. August 6, 2013 City Defendants file motion to dismiss. **August 14, 2013 Plaintiff files motion to consolidate this case with her other pending action (detailed above).** August 26, 2013 Plaintiff files amended complaint. September 3, 2013 Court issues order denying Plaintiff's motion to consolidate cases. September 9, 2013 City Defendants file motion to dismiss Plaintiff's amended complaint. September 12, 2013 Defendants Blackburn and Hegarty file motion to dismiss amended complaint. September 16, 2013 Defendant Topper files answer to amended complaint. October 4, 2013 Defendant Ashland files motion to dismiss. October 7, 2013 Defendants DeLine and Watts file motion to dismiss. October 9, 2013 Akron Children's Hospital files motion to dismiss. October 21, 2013 Plaintiff files responses to Defendants City and Judges Blackburn and Hegarty's motion to dismiss. October 24, 2013 Defendant Topper files motion to dismiss. October 31, 2013 Defendant Medina General Hospital files motion to dismiss. November 1, 2013 City Defendants and Judges Blackburn and Hegarty file their replies to their motions to dismiss.

(Total 181.25 hours - Gendill)

REAL ESTATE

KG Store 674, LLC v. Frederick R. Hastings AKA Frederic Reed Hastings, The City of Colorado Springs, a home rule city, Robert C. Balink in his Official Capacity as Treasurer of El Paso County, Colorado ("El Paso County Treasurer"), and all unknown persons who claim any interest in the subject matter of this action.

El Paso County District Court Case No. 13CV1276

CLAIM: Plaintiff seeks decree determining Defendants have no interest, estate or claim of any kind to "Subject Property" (intersection of South Nevada Ave and Mill Street to the intersection of South Nevada Avenue and Las Vegas Street) and ultimately quieting the title.

STATUS: March 5, 2013 Summons and Complaint served. April 9, 2013 City files Stipulated disclaimer of interest in real property under Rule 105(c). City is monitoring. August 12, 2013 Combined Order entered granting Plaintiff's application for entry of default judgment, plaintiff's motion for summary judgment and determination of question of law and entry of decree quieting title. **August 29, 2013 Final order from Court grants Plaintiff's Motion for Summary Judgment and Determination of Question of Law and entry of decree quieting title.** September 6, 2013 Motion filed by Plaintiff to release Lis Pendens. September 16, 2013 Court grants order to release Lis Pendens.

(Total 20.75 hours - McCall)

REGIONAL BUILDING DEPARTMENT

Probuild Company LLC and BMC West Corporation v. Heritage Homes, INC. d/b/a Today's Homes, INC. a/k/a Today's Homes; Spring Creek Construction, LLC a/d/b/a Springs Creek Construction, LLC; RBC Bank (USA) f/k/a RBC Centura Bank; American Builders Capital (US) INC.; Valiant Trust Company; Integrity Construction LLC; PTL Concrete INC.; Horizon Drywall INC.; Chiddix Brothers, INC.; D.H. Pace Company, INC. d/b/a Ankmar Door; Home Builders Services, INC.; Steel-T Heating, INC.; C&T Plumbing, LLC; Environmental Materials LLC d/b/a Environmental Stoneworks; Creative Touch Interiors, INC.; Positive Electric, LLC; METCO Landscape, INC.; City of Colorado Springs; Safety Rails of Colorado INC.; Builder Services Group, INC. d/b/a Allied Insulation Division 176; The Sherwin-Williams Company; Advanced Ready Mix INC.; Barton Materials, LLC d/b/a Barton Supply; Split Rail Fence CO; Continental Woodworks, Inc.; Sidney C. Shipp; Public Trustee of El Paso County

El Paso County District Court Case Number 2012CV4089

CLAIM: Plaintiffs filed a mechanic's lien foreclosure based on their furnishing of materials, supplies, and goods for use in or on fourteen properties owned by Heritage Homes, for which they allege payment has not been received. Plaintiffs also allege breach of contract, breach of implied contract, open account, and unjust enrichment. The remaining Defendants, including the City, may have interests in the real properties against which the Plaintiffs seek to foreclose their lien. The City's interest has been identified as extending only to a claim that the properties at issue do not comply with City Code, and this interest has been asserted in the case.

STATUS: December 6, 2012 Summons and Complaint was filed with the City. December 27, 2012 City files answer to Plaintiff's complaint. April 3, 2013 Court grants Plaintiff unopposed and stipulated motion to transfer mechanic's lien action to Division 19 and stay mechanic's lien foreclosure action.

(Total 26.25 hours – Gendill / McCall)

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

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 remanding 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 Court's order of February 28, 2012. The City reaffirmed its motion to dismiss by re-filing same in 12cv81. The city responded to ATU's motion to reconsider on March 14, 2012. On March 16, 2012, ATU filed a motion to hold the proceedings in abeyance pending a determination of proper venue. And, on March 19, 2012, ATU filed response to the City's motion to dismiss. On March 20, 2012, First Transit filed a response in opposition to ATU's motion to reconsider the Denver District Court's remand to El Paso County; and, on March 20, 2012 First Transit also responded in support of the City motion to dismiss. ATU replied on March 21, 2012 in support of its motion reconsider the Denver District Court's order remanding to El Paso County. The City then, on March 26, 2012, responded to ATU's motion to hold the proceedings in abeyance. On March 27, 2012 ATU replied to First Transit's response in support of City's motion to dismiss; and ATU replied to First Transit's response regarding the order concerning remand to El Paso County. On March 30, 2012, the City files replied to ATU in support of the City's motion to dismiss. On April 2, 2012, ATU replied in support of its motion to hold proceedings in abeyance. 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 the a judgment was entered in 2007cv1322.

2007cv1322 has been filed by ATU 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 has 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 El Paso County District Court in 12cv81 that the Court had ruled in 07cv1322. October 12, 2012 the Court issues order denying City's motion to dismiss in 12cv81. The City on November 8, 2012, filed its answer and affirmative defenses to First Transit's third party complaint. The parties exchanged disclosures on December 18, 2012. Trial is scheduled for September 16, 18 and 19, 2013. The parties have responded to written discovery in advance of the May 31, 2013 discovery cut-off date and dispositive motion deadline of June 17, 2013. May 24, 2013 Court grants stipulation to stay proceedings regarding third party claims. June 17, 2013 First Transit files motion for summary judgment. July 8, 2013 Defendant First Transit files response in opposition to Plaintiff's motion for summary judgment; Plaintiff files brief in opposition to First Transit's motion for summary judgment. July 17, 2013 Plaintiff files amended reply brief in support of its motion for summary judgment. July 24, 2013 Court grants Plaintiff's motion for summary judgment and thus agrees to proceed to arbitration; Court denies First Transit's motion for summary judgment. **August 28, 2013 First Transit files motion for entry of final judgment pursuant to CRCP 54(b). August 29, 2013 Court grants order for final judgment pursuant to 54 (b). City's liability determination is stayed. September 19, 2013 First Transit files Notice of Appeal.**
(Total 462.75 hours – McCall / Gendill)

UTILITIES

(OC)

CASCADE PUBLIC SERVICE COMPANY, INC., A COLORADO CORPORATION, AND CASCADE METROPOLITAN DISTRICT NO. 1, A COLORADO SPECIAL DISTRICT AND MUNICIPAL CORPORATION, Pueblo County District Court Water Division No. 2 Case No. 2011CW42. Plaintiff alleges that the Plaintiff and the City entered into an agreement as to water rights in 1990. Plaintiffs allege that the City, by its failure to divert, use, and account for use of Plaintiff's water rights for a period in excess of twenty years has diminished and/or terminated a portion of Plaintiff's water rights by reducing their historic consumptive use quantification and that this diminishment constitutes a breach of the 1909 agreement. The Plaintiff seeks declaratory judgment by the Court that the City did breach the 1990 Agreement with the result that the Bypass Flow Obligation is in full force and effect. June 24, 2011 Summons and complaint received. July 21, 2011 City files answer and notice to elect exclusion from C.R.C.P. 16.1. Discovery commences. In June 2012 the Plaintiffs were granted leave to amend their complaint to add a new claim for relief that the City had breached the 1990 Agreement by its alleged failure to keep accurate records and accounts of water service and to correct within a reasonable time errors in billing. The City filed its answer to the

amended complaint on July 11, 2012 and asserted a counterclaim breach of contract claim against the Plaintiff's for their failure to pay for water service within the time required by the 1990 Agreement. The Plaintiffs failed to answer the counterclaim and in November 2012 the City filed a request for clerk's entry of default and motion for default judgment. After the court entered a clerk's entry of default, the Plaintiffs moved to set aside the default and to be permitted to answer. The court granted the Plaintiffs request, and allowed the Plaintiffs to answer the City's counterclaim. In June 2012 the City filed a motion for determination of question of law asking the court to rule that the decree in Case No. 91CW44, which changed to Plaintiffs' water rights to the City's Cascade Creek intake, did not change those water rights for use within the City, and to further rule that the amount of water the Plaintiffs are entitled to divert under their water rights is limited to the lawful historical use of those water rights for municipal and irrigation use within the Cascade water system. In January 13, 2013, the court granted the City's motion. The effect of this order is to substantially eliminate any damages claimed by the Plaintiffs for the City's alleged failure to divert and record the diversions of the Plaintiffs' water rights and for diminution of the historical use of those water rights. In June of 2012 the City also filed a motion for partial summary judgment on the Plaintiffs' claim that they could assign their contractual right to receive water to any place in that the City's water system could deliver water and the water so delivered could be fully consumed by first use or successive use. The Court granted the City's motion and ruled that if the contract was assignable, then under the contract the City could only be required deliver water to the Cascade interconnection at Mother's rest, that the only place where the water could be used was in the Cascade Water System, the use of water is limited to municipal use native Fountain Creek water, and that the Plaintiffs have not right to seek to change the type of use of the City's water rights and have no right to recapture, reuse or successively use that water. In December 2012 the Plaintiffs filed a motion for partial summary judgment that the City was in default under the contract for its alleged failure to keep accurate records and accounts of water service and to correct within a reasonable time errors in billing. In January 2013 the City filed a Motion for Summary Judgment for a determination that the Plaintiffs were in default of the contract for their failure to pay for treated water service. The court has not ruled on these motions. In February 2013 the Plaintiffs hired additional legal counsel and due to the schedule of the new counsel the April 2013 trial was vacated and reset for August 13-16, 2013. The parties subsequently entered into settlement discussions and in late April agreed to hold in abeyance all further trial preparation while settlement discussions proceed. The Plaintiffs filed a motion to vacate trial to allow settlement negotiations to proceed. On May 1, 2013, the Court agreed to vacate the scheduled trial to allow the parties time to complete settlement negotiations. The parties discussed settlement on a number of occasions, but the parties were unable to reach a settlement. Trial is now scheduled for February 11-14, 2014. **On October 31, 2013 the Realty Management Group, LLC (RMG) moved to intervene in the case as a plaintiff on the grounds that it owns the Harmes Ditch Water rights. In November 2012 Cascade Public Service Company gave a deed in lieu of foreclosure to RMG conveying the Harmes Ditch Water Rights that are the subject of the 1990 Agreement. The court has not rule on the motion to intervene. In addition, the attorneys for RMG have entered their appearance as co-counsel for Cascade Public Service Company and Cascade Metropolitan District. Discovery**

and trial preparation are on-going. The City did not learn of the conveyance of the Harmes Ditch Water Rights to RMG until it was told of the conveyance by RMG in late October 2013. The City thereafter sent Cascade Public Service Company and Cascade Metropolitan District a notice of default under the 1990 Agreement for their failure to comply with the transfer requirements of the 1990 Agreement. (William Paddock at Carlson, Hammond, and Paddock)

(OC)

CHOSTNER, JEFF, IN HIS OFFICIAL CAPACITY AS DISTRICT ATTORNEY FOR THE TENTH JUDICIAL DISTRICT, COLORADO; THE OFFICER OF THE DISTRICT ATTORNEY FOR THE TENTH JUDICIAL DISTRICT, COLORADO, AND ROCKY MOUNTAIN ENVIRONMENTAL LABOR COALITION v. COLORADO WATER QUALITY CONTROL COMMISSION; STEVEN H. GUNDERSON, IN HIS OFFICIAL CAPACITY AS THE DIRECTOR OF THE COLORADO WATER QUALITY CONTROL DIVISION OF THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT; AND COLORADO SPRINGS UTILITIES, Pueblo County District Court Case No. 2011CV174. Plaintiffs are requesting declaratory/injunctive relief appealing a final determination of the Colorado Water Quality Control Division and the Water Quality Control Commission issuing a federal Clean Water Act Section 401 Water Quality Certification for the Southern Delivery System (SDS) project which proposes to pump raw water from Lake Pueblo to Colorado Springs via a series of pumping stations, pipelines, return flows, and manmade reservoirs and which Plaintiffs alleges will adversely impact water quality and/or water flow in segments of the Arkansas River, Fountain Creek, and Wild Horse Creek in Pueblo County. March 15, 2011 Summons, complaint, and waiver of service of process received. June 17, 2011 Court issued an order agreeing with State's argument that a review of the agency action pursuant to C.R.S. 25-8-404 is a remedy that is available and a review pursuant to C.R.C.P. 106 is not the correct mechanism under these circumstances. On June 20, 2011 Court issued an order denying Utilities' motion to change venue; the Court denied the Defendants' motion to dismiss on the grounds that the issue is moot. On April 12, 2012, Judge Reyes of the Pueblo County District Court entered his decision, which had actually been drafted by counsel for the Plaintiffs, and held that the decisions of the Division and the Commission to grant the 401 Certification, had been arbitrary and capricious. The Division and Utilities appealed in May 2012, and briefing was completed on December 21, 2012. On July 18, 2013, the Court of Appeals issued its decision reversing Judge Reyes' order in all respects, thereby affirming the Commission's decision. Petitioners filed a petition for certiorari review with the Colorado Supreme Court on August 29, 2013, **and both Colorado Springs and the State parties filed opposition briefs. The parties are awaiting a decision from the Colorado Supreme Court on the petition.** (D. Robbins and J. Hunt at Hill and Robbins, PC, Denver, outside counsel for Utilities). (D. Robbins and J. Hunt at Hill and Robbins, PC, Denver, outside counsel for Utilities)

(OC)

CITY OF COLORADO SPRINGS, CO v. ULTRA RESOURCES, INC, a Wyoming Corporation and ROBERT C. BALINK, El Paso County Treasurer.

El Paso County District Court Case No. 2013CV743

STATUS: January 23, 2013 Petition in Condemnation and Motion for Immediate Possession. January 24, 2013 Notice of Lis Pendens recorded with the El Paso County Clerk & Recorder. March 8, 2013 Ultra Resources files response in opposition to motion for immediate possession. March 13, 2013 Petitioner files brief in support of motion for immediate possession. March 20, 2013 Court grants order for immediate possession. **August 28, 2013 Motion for leave to file amended petition. September 23, 2013 Court grants leave to file amended petition. Status Conference held October 28, 2013; Order issued granting second motion for immediate possession.**

(Total 22.0 hours – Turner / OC Blieszner)

(CC)

CITY OF COLORADO SPRINGS, COLORADO v. WALKER RANCHES, LLLP, A COLORADO LIMITED LIABILITY LIMITED PARTNERSHIP; AND DEL OLIVAS, PUEBLO COUNTY TREASURER, Pueblo County Combined Court Case No. 2011CV313. The City filed this action in order to acquire a certain right-of-way in the form of a permanent easement and a temporary construction easement by eminent domain for the completion of the Southern Delivery System. The City requests that the Court determine the compensation to be paid Respondents for the interests in the subject property and that the City have judgment condemning the property upon compensation by the City to the Respondents. May 11, 2011 City files Petition in Condemnation. May 26, 2011 Pueblo County Treasurer files answer to petition in condemnation and notice of claim for prorated property taxes for the current taxable year on property. May 31, 2011 Walker Ranches files answer to petition in condemnation and jury demand and response to motion for immediate possession. October 11, 2011 Parties file stipulation for immediate possession. October 11, 2011 Court issues order granting immediate possession; City to deposit \$76,046.00 into court registry; Cattle Relocation Agreement previously entered into between the City and Walker Ranches incorporated into this agreement; Walker Ranches will have 90 days from date of deposit of funds into court registry to obtain appraisal at City's expense. October 18, 2011 City files notice of deposit of funds in court registry. November 29, 2011 Walker Ranches files motion for forthwith disbursement of funds on deposit in the District Court Registry. November 30, 2011 Court issues order granting motion for forthwith disbursement of funds on deposit in the District Court Registry. December 9, 2011 Defendant Olivas files disclaimer of interest. February 8, 2012 Petitioner files unopposed motion for leave to file amended petition. February 9, 2012 Court grants Petitioner's motion for leave to file amended petition. June 4, 2012 Court issues Pre-Trial Order outlining deadlines prior to trial. Four-day jury trial rescheduled from May 14, 2013 to February 18, 2014. **October 10, 2013 Parties file Proposed Stipulated Modified Case Management Order. October 21, 2013 Court grants Parties' Stipulated Amended Modified Case Management Order. October 24, 2013 Order granting Petitioner's motion for leave to file second amended petition in condemnation. October 30, 2013 Parties file stipulation for immediate**

possession. Discovery has commenced. November 4, 2013 Order granting immediate possession. (Total 47.50 hours - Turner/Blieszner/Banner)

(OC)

FRIENDS OF THE EVERGLADES, ET AL., v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND STEPHEN L. JOHNSON, IN HIS OFFICIAL CAPACITY AS ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, United States Court of Appeals for the Eleventh Circuit Case No. 08-14247-CC. This is a multidistrict case that consolidated actions filed in various federal district courts and circuit courts of appeal. Numerous Petitioners seek to vacate the United States Environmental Protection Agency's Final Water Transfers Rule, 40 CFR 122.3(i). This rule clarifies that transfers of raw water, with no intervening uses, between distinct water bodies within the United States are not regulated under the federal National Pollutant Discharge Elimination System ("NPDES"), codified as Section 402 of the Clean Water Act. As such, water transfers do not require NPDES permits. August 11, 2008, Motion for leave to intervene filed by the City of Colorado Springs, along with nine other Western water providers (collectively the "Joint Interveners"), in support of Water Transfers Rule. September 10, 2008, Order entered by single Eleventh Circuit judge denying Joint Interveners' Motion and multiple other motions for intervention (15 in total), granting intervention for only one party (South Florida Water Mgmt. Dist.), and requiring the Parties to show cause why proceedings in these consolidated cases should not be stayed pending disposal of a related case before the Eleventh Circuit Court of Appeals, *Friends of the Everglades, et al. v. South Florida Water Management District, et al.* Subsequent motions for reconsideration were unsuccessful and matter was stayed by the 11th Circuit pending resolution of the *Friends of Everglades, et al.* appeal. Due to the importance of this issue, the City of Colorado Springs continues to monitor this case as a non-party. After the Supreme Court denied *certiorari* in *Friends of the Everglades*, on December 13, 2010 EPA filed a motion for summary denial of petitions for review. January 3, 2011 Petitioner Miccosukee Tribe of Florida files agreed request to stay merits briefing pending disposition of the EPA's motion for summary denial of petitions for review. January 4, 2011 Florida Wildlife Federation files motion for remand. January 30, 2011, Court approves stipulated request to stay briefing on merits pending disposition of EPA's motion for summary denial; EPA granted until February 18, 2011 to file combined responses to pending motions. May 6, 2011, Court denies Colorado's Motion for Reconsideration of Motion to Intervene, denies motions to remand or transfer without prejudice, denies EPA's Motion for Summary Denial without prejudice, and orders clerk to establish a briefing schedule -- briefs to address both jurisdiction of the Court and the merits. August 14, 2011 Plaintiff file briefs. October 27, 2011 Defendant EPA and intervenors file responses. November 3, 2011 City and other western water used file amicus curiae brief in support of EPA. December 14, 2011 Petitioners file responses. February 24, 2012 Motion of City and other western water users' motion to appear as amicus curiae granted. August 23, 2012 Notice of change of law firm was filed by Counsel Nichols. August 30, 2012 court holds oral argument in Miami. October 26, 2012 panel dismisses challenges for lack of jurisdiction. November 13, 2012 Plaintiffs in related Case Nos. 08-c1785-civ and 08-80922-civ in Southern District of Florida dismiss challenges, and subsequently move to

intervene in related Case Nos. 08civ5606 and 08civ8430 in Southern District of New York (see below). January 23, 2013, EPA moves for en banc reconsideration. March 5, 2013, Court denies EPA's petition. June 28, 2013, EPA *et al.* file petitions for *certiorari* seeking review by U.S. Supreme Court. **October 15, 2013, U.S. Supreme Court denies *certiorari*.**

(Peter D. Nichols)

NEW YORK STATE ET AL. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND STEPHEN L. JOHNSON, IN HIS OFFICIAL CAPACITY AS ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, United States District Court, Southern District of New York, Case Nos. 08-cv-5606 and 08-cv-8430 – challenges to EPA's Water Transfers Rule filed in US District Court at the same time as challenges were filed in multiple courts of appeal (see above). November 14, 2012, after Eleventh Circuit Court of Appeals rules it does not have jurisdiction over the challenges to the Rule, Judge extends stay to December 17, 2012 without prejudice to intervention and sets briefing schedule. December 6, 2012, Western Urban Water Coalition *et al.* (including the City of Colorado Springs acting by and through Colorado Springs Utilities) "Western Providers"), files pre-motion letter requesting conference on intervention as defendants. Colorado/New Mexico *et al.*, Friends of the Everglades, Miccosukee Tribe, South Florida Water Management District file similar letters on intervention by end of December. December 27 Judge extends stay and sets pre-motion conference. January 30, 2013, Judge holds pre-motion conference on intervention in White Plains, New York; intervention granted to all by consent at conclusion of conference. Per Judge's briefing schedule: Motion(s) to dismiss by EPA and Defendant-Intervenor South Florida Water Management District, and Plaintiffs' motions for summary judgment filed March 22, 2013; EPA and Defendant-Intervenors responses and cross-motions for summary judgment filed June 7, 2013; Plaintiff's responses/replies filed July 7, 2013; EPA and Defendant-Intervenors replies filed August 2, 2013. **December 19, 2013, oral argument on cross motions for summary judgment scheduled to be held in White Plains, NY.**

(Peter D. Nichols)

Regional Transportation District, a political subdivision of the State of Colorado v. Ward Road Storage, LLC a Colorado Limited Liability Company; Wheat Ridge 52 Investment Associates, a Nevada General Partnership; Tim Kaufmann, Jefferson County Treasurer
Jefferson County District Court Case Number 2012CV4392

CLAIM: Plaintiff brings action as an eminent domain proceeding to condemn and acquire title to certain real property, improvements, fixtures and appurtenances.

STATUS: November 30, 2012 Notice of Commencement of Action – Lis Pendens filed.

(Total 11 hours – Turner / Ed Blieszner of Welborn Sullivan Meck & Tooley PC)

OTHER MATTERS

Colorado East Bank and Trust v. Academy Bank, N.A. and Thomas S. Mowle, as Public Trustee of El Paso County, Colorado/JRJ Land, LLC, a Colorado limited liability

company; Morley Companies Family Development, LLLP, a Colorado limited liability partnership; and James Morley, an individual v. Academy Bank, N.A., a nationally chartered bank; Allen Brown, an individual; Brown Financial, LLC, a Colorado limited liability company; Security Title Guaranty Co., a Colorado corporation

El Paso County District Court Case No. 10CV1731

BACKGROUND: Plaintiff obtained judgment against Defendants on May 17, 2011 for \$2,222,413.29.

STATUS: October 3, 2013 City served with writs of garnishment for JRJ Land, Morley Companies Family Development, James Morley, and 2MS Land, LLC. October 15, 2013 City files answers to writs of garnishment against JRJ Land, Morley Companies, James Morley, and 2MS Land.

(Total 29.75 hours – Turner)

Ventimiglia, John M., individually, and Silver Cloud, LLC, a Colorado limited liability company v. Raymond F. O’Sullivan, individually, Carmel O’Sullivan, individually, Ridgeview Development, LLC, a Colorado limited liability company, Realty Development Services, Limited Liability Company, Delinquent February 1, 2009, a Colorado limited liability company, d/b/a Realty Development Services

El Paso County District Court Case Number 2010CV5015

Colorado Court of Appeals Case No. 2013CA

BACKGROUND: Plaintiff obtained judgment against Defendants on May 17, 2011 for \$2,595,552.69.

STATUS: April 9, 2013 City served with writs of garnishment for Ridgeview Development, LLC and Realty Development Services, LLC. April 30, 2013 City files answers to writs. May 13, 2013 City files amended answer to writ for Ridgeview Development, LLC. June 5, 2013 Plaintiff files motions for release of funds of judgment debtors Realty Development Services and Ridgeview Development. **June 26, 2013 Ridgeview Development files motion to vacate the previously entered default judgment against Defendants, arguing that service was improper. July 12, 2013 Plaintiffs file response to Ridgeview’s motion to vacate the default judgment. July 29, 2013 Ridgeview files its reply to its motion to vacate default judgment. August 30, 2013 Hearing held on motion to vacate default judgment and motions for release of funds; Court denies the motion to vacate judgment and grants motions for release of garnished funds as they relate to Ridgeview Development and Realty Development Services. October 21, 2013 Ridgeview files notice of appeal.**

(Total 7.50 hours – Turner)

ADMINISTRATIVE SECTION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION/ COLORADO CIVIL RIGHTS DIVISION

DISPOSED MATTERS

EMPLOYEE v. CITY OF COLORADO SPRINGS, EEOC Charge No. 541-2013-00171.
Charging Party alleges discrimination on the basis of Title VII, ADA and ADEA.

December 27, 2012 Charges filed. January 9, 2012 Charges received. Position statement filed March 1, 2013. July 16, 2013 CCRD issues Notice to Claimant he may commence in a civil action as 180 days have elapsed and Claimant specifically requested this notification. (Total 219.5 hours – McKinney)

EMPLOYEE V. CITY OF COLORADO SPRINGS, CCRD Charge No. E20130375. Charging Party alleges discrimination based on sex, gender, and orientation. September 12, 2012 Claimant filed charges. Position statement due November 17, 2012. May 16, 2013 Determination by CCRD of no sufficient evidence to support Charging Party's claim of discrimination by the Respondent; No Probable Cause is issued (mailed 7/2/13). Deadline to file lawsuit *September 30, 2013*. (Total 105.75 hours – Jeffrey)

MEMORIAL HEALTH SYSTEM, OCR 08-79513. Complainant alleges discrimination by failing to accommodate a disability (deafness) when sign language interpreters were not provided in a reasonable amount of time. Discrimination charge received April 4, 2008. Position statement filed May 1, 2008. Supplemental position statement filed June 20, 2008. Second supplemental position statement filed August 25, 2008. May 22, 2009 Third supplemental position statement filed. Defendant has also produced and continues to produce additional information at the request of DOJ counsel relating to this matter. October 17, 2011 City receives request for additional information; additional information due October 26, 2011; extension to respond granted. November 9, 2011 City submits additional information requested. October 10, 2012 US Department of Health and Human Service (HHS) and the Office for Civil Rights (OCR) completed its investigation of the disability discrimination complaint filed and a Voluntary Resolution Agreement was executed by MHS and OCR/HHS. **UCH has assumed responsibility for performance of the Voluntary Resolution Agreement.** (Total 405.5 hours – Turner)

NEW MATTERS

EMPLOYEE v. CITY OF COLORADO SPRINGS, EEOC Charge No. 541-2013-02295. September 17, 2103 Charging Party alleges Title VII discrimination on the basis of race and color. Position statements and request for information due October 21, 2013. (Total 124.0 hours – McCall)

EMPLOYEE v. CITY OF COLORADO SPRINGS, EEOC Charge No. 541-2013-02323. Charging Party alleges discrimination based on Title VII. Waiting on perfected charge. (Total 1.75 hours – McCall)

EMPLOYEE v. CITY OF COLORADO SPRINGS, EEOC Charge No. 541-2013-02190. Charging Party retaliation based on race, color and prior Charge of Discrimination. Position Statement and request for information filed October 18, 2013. Waiting for decision from EEOC. (Total 20 hours – Harris Karstaedt Jameson and Powers)

EMPLOYEE v. CITY OF COLORADO SPRINGS, EEOC charge 541-2013-02323. Charging Party filed the charge of discrimination under Title VII of the Civil Rights Act,

claiming discrimination based on her gender, as well as retaliation. Position Statement and RFI due 12/10/13. (Total __ hours – Lessig).

EMPLOYEE v. CITY OF COLORADO SPRINGS, EEOC charge 541-2014-00026. Charging Party filed the charge of discrimination under Title VII of the Civil Rights Act, claiming discrimination based on his national origin, as well as retaliation. Position Statement and RFI due 12/30/13. (Total __ hours – Lessig).

EMPLOYEE v. CITY OF COLORADO SPRINGS, CCRD charge E20140163 – Charging Party filed the charge of discrimination under Title VII of the Civil Rights Act, claiming discrimination based on race, and retaliation. The City's Position Statement and RFI Response are due 12/13/13. (Total __ hours – Lessig).

CURRENT MATTERS

EMPLOYEE V. CITY OF COLORADO SPRINGS, EEOC 541-2013-01528. Charging Party files Notice of Discrimination based on Title VII and Age on May 29, 2013. Position Statements and Request for Information responses filed July 25, 2013. **Waiting for decision from EEOC.**
(Total 115.25 hours – McCall)

EMPLOYEE V. CITY OF COLORADO SPRINGS, EEOC 541-2013-01644. Charging Party files third Notice of Charge of Discrimination on Title VII and Age Discrimination on July 1, 2013. **Position Statements filed August 15, 2013 after extension.** (Total 12.75 hours – Lessig)

EMPLOYEE v. CITY OF COLORADO SPRINGS, EEOC Charge No. 541-2013-01723. Charging Party files second Notice of Discrimination based on ADA discrimination. **Position Statements filed August 16, 2013. Waiting for decision from EEOC.** (Total 211.5 hours – Lessig)

EMPLOYEE v. CITY OF COLORADO SPRINGS, EEOC Charge No. 541-2013-01504. Notice of Charge of ADA Discrimination is filed May 22, 2013. May 29, 2013 Charging Party alleges discrimination based on disability and retaliation. **Position Statements filed August 16, 2013. Waiting for decision from EEOC.** (Total 103.25 hours - McKinney / Lessig)

EMPLOYEE V. CITY OF COLORADO SPRINGS, EEOC Charge No. 541-2013-00470. *See EEOC Charge No. 846-2011-75171.* Charging Party alleges discrimination on the basis of Title VII, ADA, age, gender and retaliation. Position statement filed February 6, 2013. **October 24, 2013 EEOC issues Notice to Claimant they may commence in a civil action as 180 days have elapsed and Claimant specifically requested this notification; deadline to file lawsuit February 3, 2014.** (Total 78.0 hours – Lessig)

EMPLOYEE v. CITY OF COLORADO SPRINGS, EEOC Charge No. 541-2013-00510. December 12, 2012 Charging Party alleges discrimination on the basis of Title VII,

retaliation. Position Statement and Request for Information filed July 26, 2013. of Title VII, ADA, age, gender and retaliation. Position statement filed February 6, 2013. **October 24, 2013 EEOC issues Notice to Claimant they may commence in a civil action as 180 days have elapsed and Claimant specifically requested this notification; deadline to file lawsuit February 3, 2014.** (Total 10.75 hours - Orona /Harris, Karstaedt, Jamison & Powers, P.C.)

EMPLOYEE v. CITY OF COLORADO SPRINGS, EEOC Charge No. 846-2011-75171. Charging Party alleges discrimination on the basis of age and sex and retaliation for engaging in a protected activity. August 18, 2011 Charge filed. Position statement due September 26, 2011; extension granted to October 26, 2011. October 26, 2011 City filed position statement. Waiting for decision from EEOC. (Total 51.25 hours – Lessig)

EMPLOYEE v. CITY OF COLORADO SPRINGS, EEOC Charge No. 541-2011-01916. Charging Party alleges discrimination on the basis of race and age and retaliation for engaging in a protected activity. August 9, 2011 Charge filed. Position statement originally due September 13, 2011; extension granted to October 13, 2011; additional extension granted to October 27, 2011. October 26, 2011 City filed position statement. **September 25, 2013 EEOC issues determination that it is unable to conclude that the information establishes violation of the statutes. Deadline to file lawsuit December 26, 2013.** (Total 53 hours – Lessig)

UTILITIES ADMINISTRATIVE/REGULATORY MATTERS

WATER CASES (OC)

Active Application Cases 10 (3 Diligence cases)

Number	Case Name
04CW132	Denver Basin Groundwater Return Flow Exchange
05CW096	Leased Water Exchange
06CW120	ROY Exchange Application
07CW120	Quail Lake Storage
07CW121	Fountain Creek Recovery Exchange
07CW122	Pueblo Reservoir/Williams Creek Reservoir to Local Storage
12CW31	Upper Williams Creek
13CW009	Arkansas River Exchange (Diligence)
13CW020	Local System Exchange (Diligence)
13CV3045	Homestake (Diligence)

Objector Cases 78

BEFORE WATER REFEREE	67
Active	49
Stipulated	29

BEFORE WATER JUDGE**11**

Number	Case Name
04CW096	Upper Arkansas Valley
06CW115	Round Mountain
10CW004	Lower Arkansas Valley Water
10CW063	Florence
10CW298	Grand County Board of Commissioners
11CW013	City of La Junta
11CW077	Lower Arkansas Valley Water Conservancy District and Larkspur, Inc.
12CW001	Woodmoor Water and Sanitation District
12CW051	Doyle, et al.
12CW124	Climax Molybdenum Company
12CW176	Climax Molybdenum Company

WORKERS COMPENSATION MATTERS OUTSIDE COUNSEL**Active cases:**

Municipal – 28
 Utilities – 6
 Memorial - 4

Subrogation cases handled by outside counsel:

Municipal – 0
 Utilities – 0

Subrogation cases handled by City Attorney's Office:

Municipal – 3
 Utilities – 1

CRIMINAL PROSECUTIONS SECTION**(MUNICIPAL COURT)**

	<u>AUGUST</u>	<u>SEPTEMBER</u>	<u>OCTOBER</u>
Cases Docketed for Trial by Court	166	153	148
Cases tried:	74	53	72
Cases handled without trial:	92	100	76
Cases Docketed for Trial by Jury:	16	10	13
Cases tried:	0	0	1
Cases handled without trial:	16	10	12
Cases Handled on Deferred Docket:	173	183	140
Cases Handled at Pretrial:	492	425	649
Cases Handled at Arraignments:	614	779	1092
Mailed Dispositions:	29	29	28
Deferred Sentences at Arraignment:	18	8	43
Criminal Arraignments Screened:	386	395	489

Jail Docket:	234	294	314
Liquor Hearings:	1	0	0
TOTAL MATTERS:	2129	2276	2916