



**DATE:** January 28, 2020

**TO:** Colorado Springs City Council

**FROM:** Office of the City Attorney

**SUBJECT:** *Caitlyn Harmon v. Ronald L. Payton and City of Colorado Springs*, Case No. 19CV32702, District Court, El Paso County, Colorado

This memorandum is to apprise you of the facts alleged in the above-referenced case as you consider the claims made against the involved City employee and the recommendation of the Civil Action Investigation Committee.

#### **NATURE OF THE CASE**

Plaintiff's complaint arises out of a traffic accident with Colorado Springs Utilities employee Ron Payton. Mr. Payton is a construction/maintenance coordinator for the GCOM technical services department.

At approximately 9:20 am on Tuesday, August 14, 2018, Plaintiff, Mr. Payton, and a third driver, Yen Le, all were traveling northbound on Austin Bluffs Parkway, approaching Farmingdale Drive. Plaintiff was driving a dark 2013 Subaru Crossover hatchback in the left through lane (TU#2), Mr. Payton was driving a white Utilities 2011 Ford Ranger pick-up truck in the middle through lane (TU#1), and Mr. Le was driving a white 2015 Nissan Altima sedan in the right through lane (TU#3). The vehicles all were going approximately 45 miles per hour, the speed limit. Mr. Payton was not using his phone or looking at paperwork.

Allegedly as a result of sideswipe contact between the vehicles, Plaintiff hit the central median to her left and then steered right to correct, hitting the right curb and flipping her vehicle a number of times before it came to rest on its wheels. Mr. Payton steered right and ran over the right curb into a fence. Mr. Le ran over the right curb and ran into a streetlight pole.



[The above diagram is from the Traffic Accident Report. In its final resting position, the white vehicle TU#3 appears to be mis-labeled as TU#2.]

The police were unable to determine who first exited their lane of travel and struck another vehicle. No tickets were issued.

Plaintiff filed suit against Mr. Payton and the City of Colorado Springs asserting negligence and negligence per se claims against Mr. Payton and vicarious liability, negligent entrustment and negligent supervision/hiring/retention/ratification against the City. She claims damages for:

- Property damage;
- Medical costs;
- Lost income;
- Non-economic loss;
- Costs of suit; and
- Interest.

## **RECOMMENDATION**

The Civil Action Investigation Committee met on January 10, 2020, and recommends that the City represent Ronald Payton as required by the Colorado Governmental Immunity Act. Ronald Payton was acting in the course and scope of his employment and not in a willful and wanton manner. As usual, it is recommended that the City reserve the right not to pay any award of punitive damages.