

CITY OF COLORADO SPRINGS

OFFICE OF THE CITY ATTORNEY

DATE: April 11, 2014

TO: Civil Action Investigation Committee

FROM: City Attorney's Office

SUBJECT: *Michael Lee, individually and for Cannabis Therapeutics, LLC v. The City of Colorado Springs, The City of Colorado Springs Police Department, Pete Carey, in his official capacity, Dan May, and Unknown Members of the Colorado Springs Police Department; Case No. 2014cv030482, District Court, El Paso County, Colorado*

NATURE OF THE CASE

The complaint arises out of the destruction of medical marijuana ("MMJ") during Mr. Lee's criminal prosecution for marijuana-related charges. On January 30, 2012, unnamed Colorado Springs Police Officers (along with officers from VNI and the Medical Marijuana Enforcement Division ("MMED")) executed a search warrant on Mr. Lee's medical marijuana business, Cannabis Therapeutics, LLC. According to Plaintiffs, the officers seized 328 MMJ plants, 43 pounds of refined MMJ, 2 pounds of MMJ candies, and 48 pounds of MMJ edibles. Mr. Lee was charged with three felonies and a misdemeanor. The District Attorney's Office dropped the felony charges, and the court then ordered the return of the seized property. Plaintiff ultimately pled guilty to a misdemeanor charge of possession of MMJ paraphernalia. Plaintiffs allege that all of the seized property was destroyed due to Defendants' failure to properly store and preserve it during his criminal prosecution. They also allege that for a period of over two years from the date of the search, Defendants took and held their MMJ dispensary license.

COMPLAINT

Plaintiffs assert five claims against the Defendants, as follows:

1. "Bailment/Negligence," based on the destruction of the Medical Marijuana while it was in City Defendants' custody;
2. Colorado Constitution, art. XVIII, § 16(4), based on the taking and destruction of the Medical Marijuana;
3. Colorado Constitution, art. II, § 25, asserting a due process deprivation of life, liberty or property;
4. Colorado Constitution, art. II, § 15, asserting a taking of private property for public or private use without just compensation; and
5. Tortious Interference With Prospective Business Relations, based on the City Defendants' alleged failure to timely return Plaintiffs' medical marijuana dispensary license.

30 S. Nevada Avenue, Suite 501 • TEL 719-385-5909 FAX 719-385-5535
Mailing Address: Post Office Box 1575 • Colorado Springs, CO 80901-1575

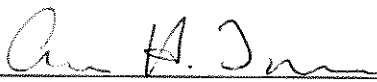
Plaintiffs are seeking compensatory damages.

RECOMMENDATION

It is recommended that the Committee vote to have the City represent Chief Carey as required by the Colorado Governmental Immunity Act, C.R.S. § 24-10-110 and City Code § 1.4.302. The conduct of which Plaintiffs complain occurred while the Chief was acting within the course and scope of his employment. As usual, it is recommended that the City reserve the right to not pay any amount of punitive damages.

Sincerely,

FOR THE CITY ATTORNEY/CHIEF LEGAL OFFICER

By: 

Anne H. Turner
Senior Attorney