



**DATE:** April 14, 2015

**TO:** Colorado Springs City Council

**FROM:** Office of the City Attorney

**SUBJECT:** *Arick Justin Rinaldo and The Estate of Kaitlin Kendall Rinaldo v. The Colorado Springs Police Officers, et al.; Case No. 15CV38*

This memorandum is to apprise you of the facts alleged in the above-referenced case as you consider the claims made against the officers involved.

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

Plaintiff, Arick Justin Rinaldo, has brought this action, on behalf of himself and his claimed wife's estate, in the El Paso County District Court. Mr. Rinaldo alleges that unnamed officers violated his and his wife's civil rights by the officers escorting him out of the Pikes Peak Palative and Hospice Care after the property owners requested the police to do so. Officers W. Watson and M. Palmer have been served with the Amended Complaint, however, neither officer is named in the Amended Complaint.

Mr. Rinaldo alleges that on January 6, 2013, his wife was admitted to St. Francis Medical Center. Ms. Rinaldo was subsequently transferred to Memorial Hospital on January 9, 2013, as Memorial was better equipped to perform a heart surgery. Surgery was then scheduled for January 11, 2013. Mr. Rinaldo was subsequently barred from unsupervised visitation of Ms. Rinaldo by Dr. Mahan at Memorial.

On January 11, 2013, Dr. Mahan, and others at Memorial, held a meeting and decided not to go ahead with the surgery. On that same day, Mr. Rinaldo was informed that Ms. Rinaldo would be transferred to hospice. Mr. Rinaldo and Dr. Mahan then had a discussion regarding Mr. Rinaldo seeking medical care for Ms. Rinaldo elsewhere. Following that discussion, Dr. Mahan called security and claimed that Mr. Rinaldo physically assaulted him, or attempted to assault him. The security guards then escorted Mr. Rinaldo off of the property and warned him that he would be arrested if he returned.

On January 20, 2013, Mr. Rinaldo went to the hospice. At that time, the nurses at Pikes Peak Palative and Hospice Care called the Colorado Springs Police Department requesting that the police remove Mr. Rinaldo from the property. Police officers arrived and escorted Mr. Rinaldo off of the property.

Mr. Rinaldo claims that his and Ms. Rinaldo's constitutional rights were violated. Mr. Rinaldo has alleged seven claims to include Felonious Killing, Breach of Duty, Deprivation of Rights, Due Process, Equal Protection, Wrongful Death, and Conspiracy against the unnamed officers and other Defendants. Mr. Rinaldo is seeking declaratory and injunctive relief, and an unspecified amount of money for compensatory and punitive damages, attorney fees, and costs.

Mr. Rinaldo has not actually named any officers in the Amended Complaint, although he has served Officers Watson and Palmer. Nevertheless, whoever the officers were who escorted Mr. Rinaldo off of the property had probable cause to do so.

### **RECOMMENDATION**

The Civil Action Investigation Committee has recommended that the City represent Officers Watson and Palmer as required by the Colorado Governmental Immunity Act and the Peace Officer's Liability Act. Whoever the officers were who escorted Mr. Rinaldo off of the property were acting in the course and scope of their employment and had probable cause to do so. As usual, it is recommended that the City reserve the right to not pay any award of punitive damages.

Sincerely,



Shane White, Division Chief – Litigation