



**DATE:** April 10, 2014

**TO:** Civil Action Investigation Committee

**FROM:** City Attorney's Office

**SUBJECT:** *David Mazin v. Jeffrey True, in his official and individual capacity, Kristin Genta, in her official and individual capacity, Erin Land, Henry Hasler, Noel Peterson, Barbara Brohl, Laura Harris, and City of Colorado Springs, Colorado; Case No. 14-cv-00654-CBS, U.S. District Court for the District of Colorado*

### NATURE OF THE CASE

Mr. Mazin's complaint arises out of the destruction of medical marijuana ("MMJ") during his criminal prosecution. On March 5, 2012, Colorado Springs Police Officers True and Genta (along with officers from the Medical Marijuana Enforcement Division ("MMED")) executed a search warrant on Mr. Mazin's medical marijuana center, Medical Marijuana Connection, LLC ("MMC"). Mr. Mazin alleges that on that day, the officers cut (without first photographing) 472 MMJ plants from their root balls, put the plants in burlap bags and transferred and stored the bags in the POC annex. He alleges they also seized 17.11 pounds of refined MMJ, which they stored in evidence bags. Mr. Mazin was charged with two felony counts of cultivation of marijuana and conspiracy to commit cultivation of marijuana, but the State dismissed the charges thirteen months later. The court then ordered the return of the seized property. Because Mr. Mazin's MMJ center had since gone out of business, he stipulated to the destruction of the property. He is suing nonetheless, based on the officers' cutting of the plants and failure to photograph the plants at the time of the seizure, and the City's alleged failure to train the officers regarding the appropriate handling and storage of seized MMJ.

### COMPLAINT


Mr. Mazin's complaint asserts a single claim against the individual officers: a claim under 42 U.S.C. § 1983 for an unreasonable seizure in violation of the Fourth and Fourteenth Amendments based on cutting the plants and failing to photograph or preserve the root systems of the plants before cutting them. He summarily alleges the officers' actions were willful and wanton and motivated by an intent to harm him. Mr. Mazin is seeking compensatory and punitive damages, as well as appropriate declaratory, injunctive and/or equitable relief.

### RECOMMENDATION

It is recommended that the Committee vote to have the City represent Officers True and Genta as required by the Colorado Governmental Immunity Act, C.R.S. § 24-10-110 and City Code § 1.4.302. The conduct of which Mr. Mazin complains occurred while they were acting within the course and scope of their 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