MAXTED LAW

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Re: Taz Baroz v Alamosa - Civil Rights Violation Demand - FRE/CRE 408 Protected

Dear Counsel,

MAXTED LAW LLC has been retained to represent Taz Baroz regarding the violation of his civil rights by former Alamosa Police Department (APD) Officer Nick Smith, with Officer Jareb Aziz who failed to intervene. On May 6, 2021, during the arrest of Mr. Baroz on a warrant, Defendant Smith violated Mr. Baroz's civil rights including through the use of excessive force. After Mr. Baroz briefly fled from Defendant Smith on foot, he was quickly subdued and gave up. Despite the absence of any threat, Defendant Smith assaulted Mr. Baroz through multiple punches to the head, crushing his knee into Mr. Baroz's head, stomping him, and slamming him into the ground. Mr. Baroz suffered injuries including facial lacerations and abrasions, concussion, and bloody gashes on his scalp which resulted in a total of 7 staples in his head. At the time of this gratuitous violence, there was no legal justification. Defendant Smith's conduct violated state and federal constitutional rights.

We have records including body-worn camera (BWC) from other officers (as discussed below, Defendant Smith's BWC seems not to exist) showing Smith's misconduct. As you know, Defendant Smith's misconduct led to his disgraceful firing from APD, and an Internal Affairs investigation which found civil rights violations and false reports by Smith. As you are also aware, this law firm recently reached a resolution against Smith and Alamosa resulting in a substantial six figure settlement in the Nicholas Hepworth matter.

We are prepared to file suit prior to the statute of limitations, which expires on May 6, 2023. However, we are writing to extend an offer to settle Mr. Baroz's legal claims prelitigation. Due to the short timeframe prior to the statute of limitations deadline, negotiations would either need to ensue immediately, or a tolling agreement may need to be considered. Should Alamosa decline to engage, we will file state constitutional claims pursuant to C.R.S. § 13-21-131, in which qualified immunity is not a defense, though we will consider also filing claims under 42 U.S.C. § 1983, including a *Monell* claim against the Chief of Police in his official capacity and the City of Alamosa, should the case proceed to litigation.

I. FACTUAL BACKGROUND

On May 6, 2021, Defendant Smith was patrolling with APD CSO Jareb Aziz who was reportedly on a ride along. They encountered Mr. Baroz, who had an active warrant. Mr. Baroz allegedly fled on foot across the street but was soon apprehended. At that point, Mr. Baroz did not resist or attempt to flee, nor did he do anything violent or aggressive toward the officers. Mr. Baroz submitted to their authority and posed no danger. However, Defendant Smith (without intervention by Aziz), proceeded to punch Mr. Baroz repeatedly, stomp him into the ground, and smash his face and head into the ground.

It seems a pattern with Defendant Smith that his body worn camera (BWC) would not capture key events. This occurred in the Nicholas Hepworth matter, in which his BWC turned off in the middle of a use of force, and also occurred on at least one prior occasion resulting in APA discipline against Defendant Smith. Once again, in this case Smith either failed to turn on his BWC during the incident with Mr. Baroz, or recorded it and later destroyed the video in order to cover up his actions. This is particularly noteworthy because Mr. Baroz immediately reported to other officers Smith's misconduct, and asked them immediately to check the body camera for proof. Indeed, BWC by other officers indicates the misconduct. When one officer approached Defendant Smith and Aziz on top of Mr. Baroz, who was prone on the ground, Defendant Smith can be audibly heard stating to Mr. Baroz, "yeah you're a bitch." In response, an understandably upset Mr. Baroz says that he hadn't resisted, didn't do anything to Mr. Smith, and asked other officers to "check his fucking body cam" because what Defendant Smith had done to him was "fucked up." Mr. Baroz reported to other officers that Smith had "socked him in the head" and repeatedly asked them to "check his body cam" to investigate the excessive violence and misconduct by Smith. In another BWC from a responding officer, Mr. Baroz is heard saying that Smith was "stomping me out" and that it was "fucked up." Screenshots from the BWC of other responding officers, after Defendant Smith's assault of Mr. Baroz, show the aftermath. Below, a screenshot is shown of Mr. Baroz's facial injuries and the wet, bloody hair on his head:

This screenshot from the BWC of other responding officers shows the blood on Mr. Baroz's head caused by Defendant Smith. Mr. Baroz is notably compliant with this officer, although understandably upset at what Defendant Smith had just done to him. He continues to repeat that other officer should "check his body cam" to see what happened.

Mr. Baroz was transported directly to the hospital after Defendant Smith's assault of him. At the hospital, physicians irrigated the wounds and treated Mr. Baroz for suspected concussion and other head injuries. They also stapled the gashes on his scalp, resulting in 7 staples visible on Mr. Baroz's scalp:

II. CLAIMS AND LEGAL AUTHORITY

We believe the facts demonstrate that Defendants Smith (and Aziz for failure to intervene) violated Mr. Baroz's right to be free from unlawful excessive force at the hands of police. We anticipate asserting several legal claims should the matter not be resolved prelitigation. We emphasize that for claims under the Colorado Constitution Defendant **will not** receive the protections of qualified immunity. C.R.S. § 13-21-131. We may also choose to file federal constitutional claims under 42 U.S.C. § 1983, including for municipal liability against the Chief of Police and City of Alamosa. Under both state and federal caselaw, Defendant Smith's was unlawful.

You should be aware that Colorado is expected to apply the state Constitution in § 13-21-131 cases against excessive force more expansively than under federal law. In other words, Colorado courts will not simply follow federal § 1983 caselaw on what constitutes excessive force or an unreasonable seizure. As the Colorado Supreme Court forcefully acknowledged, "**When interpreting our own constitution, we do not stand on the federal floor; we are in our own house.**" *Rocky Mt. Gun Owners v. Polis*, 2020 CO 66, ¶ 36, 467 P.3d 314, 324 (emphasis added). In discussing the significance of interpreting its own constitution, the Colorado Supreme Court rejected the argument that parallel text demands parallel interpretation. *See id.* at ¶ 37 (even parallel text does not mandate parallel interpretation). The Court supported the proposition by relying on this state's more expansive interpretation of Article II, Section 7 of the state constitution, the Fourth Amendment analogue at issue in this case. *Id*. (*citing People v. McKnight*, 2019 CO 36, ¶¶ 38-43, 446 P.3d 397, 406-08) (departing from Fourth Amendment jurisprudence to determine a dog sniff was a search under article II, section 7 of the Colorado Constitution where distinctive state-specific factors overcame the provisions' substantially similar wording). Therefore, we believe Colorado Courts will protect citizens from unlawful police seizures and excessive violence to a greater extent than federal law.

A. Excessive Force

Defendants are liable for excessive force because after Mr. Baroz was compliant and subdued and clearly posed no threat, Defendant Smith (with Aziz, who failed to intervene) gratuitously and repeatedly punched and assaulted Mr. Baroz, causing injuries and bleeding, unreasonably and without justification. Both the Fourth Amendment and Section 7 of Article II to the Colorado Constitution forbid the use of excessive force in making a seizure. **State law contains greater protections against excessive force than federal law**, which we will argue only heightens the duty on police such as Defendant Smith not to use excessive or unlawful force. For instance, this duty is informed by C.R.S. § 18-1-707(1), which requires that police "**shall apply nonviolent means, when possible, before resorting to the use of physical force.**" (emphasis added). This statute further requires that, when force is used, police shall **"[u]se only a degree of force consistent with the minimization of injury to others**," and specifically forbids the use of a "chokehold," meaning the use of pressure on the neck or throat which "**may prevent or hinder breathing or reduce intake of air**." C.R.S. § 18-1-707(2)(b), (2.5)(b)(I). These statutory requirements inform the constitutional duties of police officers in Colorado.

Even if state courts adopt the federal standard for excessive force, that test will clearly be met in this case. *Casey v. City of Federal Heights*, 509 F.3d 1278, 1281 (10th Cir. 2007). Whether officers used excessive force under the Fourth Amendment depends on "whether the officers' actions are objectively reasonable in light of the facts and circumstances confronting them." *Id.* (citing *Graham v. Connor*, 490 U.S. 386, 396 (1989)); *McCowan v. Morales*, 945 F.3d 1276, 1283 (10th Cir. 2019). This analysis requires careful attention to the facts and circumstances of the case, including "the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest[.]" *Graham*, 490 U.S. at 396.

In *Casey*, plaintiff was carrying a court file with him on his way back to the courthouse after exiting the court to retrieve money from his car. 509 F.3d at 1280. While on his way back to the court he was stopped by an officer demanding he return to his truck. Upon insisting the court file needed to be returned, the officer requested the file. As Casey appeared to walk away, the officer tackled him. More officers arrived and then tased, beat, and cuffed Casey. The Court of Appeals found that the officers had used excessive force because there was no reason to believe there was "an immediate threat to the safety of anybody present," Casey was neither "actively resisting arrest" nor "attempting to evade arrest by flight," and where the crime is a harmless misdemeanor "committed in a particularly harmless manner," the level of force that is reasonable to use is reduced. *Id; see also Cavanaugh v. Woods*, 625 F.3d 661 (10th Cir. 2010) (excessive for was used where officers tased an individual in the back without warning while she walking toward her front door unarmed; *Morris v. Noe*, 672 F.3d 1185, 1190, (10th Cir. 2012) (excessive force was used where officers grabbed and threw individual to the ground that was backing toward them with hands up).

Even if Defendant Smith claims that Mr. Baroz resisted (which we dispute) this will not save him from liability: Colorado law permits people to use self-defense from unlawful, excessive violence at the hands of police. *People v. Barrus*, 232 P.3d 264 (Colo. App. 2009); C.R.S. §§ 18–1–704(1), 18–8–104(1)(a), (2). Self-defense law states that "a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person." § 18–1–704(1), C.R.S.2009. The right of self-defense exists with no less entitlement when the person committing the unlawful force is a police officer: the law "**permits a person to defend himself when he reasonably believes that unreasonable or excessive force, as proscribed by section 18–1–707(1)(a) [C.R.S.2009], is being used by law enforcement Officers or that its use is imminent**." *People v. Fuller*, 781 P.2d 647, 650 (Colo.1989) (emphasis added).

Here, the "**gratuitous use of force**" against an arrestee has been a clearly established Fourth Amendment violation at least since 2011, if not likely decades earlier. *McCowan*, 945 F.3d at 1287; *see also Salazar v. White*, No. 14-CV-02081-RM-CBS, 2015 WL 5781650, at *4 (D. Colo. Oct. 5, 2015) ("the law was clearly established such that a reasonable person in Defendant's position would have known that the use of violent physical force on a pretrial detainee who is not resisting and is handcuffed would violate that person's Fourteenth Amendment rights."); *Young v. Brock*, No. 10-CV-01513-WJM-CBS, 2011 WL 7163067, at *6-7 (D. Colo. Aug. 15, 2011) (denying motion to dismiss where detainee alleged he was grabbed by the hair and head beaten into the floor), *report and recommendation adopted*, No. 10-CV-01513-WJM-CBS, 2012 WL 385494 (D. Colo. Feb. 7, 2012); *York v. City of Las Cruces*, 523 F.3d 1205, 1209 (10th Cir. 2008) (denying qualified immunity where officers alleged to have used excessive force slamming plaintiff to the ground and injuring him when plaintiff called officer "bitch"); *Nosewicz v. Janosko*, 754 F. App'x 725, at 734–35 (as of 2014, violated clearly established law to slam jail detainee's head into wall who was "irate" and "disruptive" but did not "actively resist," reversing summary judgment as to excessive force where jail detainee did not "actively resist" and defendant slammed plaintiff's head into the wall); *Estate of Booker v. Gomez*, 745 F.3d 405, 424 (10th Cir. 2014) (violation of clearly established law to assault detainee who posed no threat and "was not resisting").

Defendant Smith will find no refuge claiming that Mr. Baroz fled from him first. Even when a suspect flees police or a law enforcement officer has faced life-threatening danger earlier in an incident, "**circumstances may change within seconds**" eliminating the justification for force. *Thomas v. Durastanti*, 607 F.3d 655, 666 (10th Cir. 2010) (emphasis added) (citing *Waterman v. Batton*, 393 F.3d 471, 481 (4th Cir. 2005) ("We therefore hold that force justified at the beginning of an encounter is not justified even seconds later if the justification for the initial force has been eliminated.")).

The case of *Osterhout v. Morgan*, 763 Fed. Appx. 757, 759 (10th Cir. 2019), is instructive. In *Osterhout*, a deputy sheriff began chasing Mr. Osterhout after Mr. Osterhout became alarmed with the officer's car

speeding up towards his motorcycle. He sped away from the officer who began a high-speed chase. *Id.* After a quarter mile chase, Mr. Osterhout finally pulled over. *Id.* The officer arrived moments later and hit the back of Mr. Osterhout's motorcycle, throwing Mr. Osterhout from the motorcycle into a ditch. *Id.* Mr. Osterhout was by then stopped, but the officer still punched Mr. Osterhout in the face with a closed fist and/or a flashlight, causing injury. *Id.* He also kneed Mr. Osterhout several times in the ribs. *Id.* The Tenth Circuit affirmed the district court's denial of qualified immunity. *Id.* at 763. The circuit court reasoned that "[e]ven if Mr. Osterhout's operation of the motorcycle had previously posed a threat to the officers or members of the public, the circumstances had changed" because "[t]he high-speed chase had ended" and that the officer "should have been able to recognize and react to the changed circumstances . . . a reasonable officer would not have believed that Mr. Osterhout posed an immediate threat to the officers or the public." *Id.* at 762. Based on precedent, "it would have been obvious to [the officer] that it was unconstitutional for him to use violent force on Mr. Osterhout when he was not resisting arrest, not attempting to flee, and there was no objective reason to believe that he posed an immediate threat to the officers or the public." *Id.* at 763.

Also instructive is the case of *Valdez v. Motyka*, which the owner of this law firm, David Maxted, successfully litigated past summary judgment and achieved the dismissal of defendant's appeal to the Tenth Circuit, later resulting in a total trial verdict of about **$3.7 million**. In *Valdez*, a police officer was shot in the arm during a high-speed car chase. As the chase ended, the officer shot Mr. Valdez, striking him in the back and finger, even though he had surrendered. While the officer claimed he had reasonable fear—after all, he'd been shot—at the time he fired, the district court found that "the immediate danger had passed." *Valdez v. Motyka*, 416 F. Supp. 3d 1250, 1259 (D. Colo. 2019). Denying summary judgment, which the Tenth Circuit ruled it had no jurisdiction to review given the factual dispute, the district court relied on the seminal case of *Tennessee v. Garner*, and other more recent cases, to conclude the conduct violated clearly established law. *Id.* (citing *Tennessee v. Garner*, 471 U.S. 1, 11 (1985); *King v. Hill*, 615 F. App'x 470, 479 (10th Cir. 2015) (finding that a series of published cases established, as of 2010, "that an officer could not shoot an unarmed man who did not pose any actual threat to the officer or to others").

In sum, it makes no difference whether Mr. Baroz fled or had an active warrant. At the time of the use of force, any threat or justification had passed. The violence used by Defendants was excessive and unnecessary and legally unjustified. This is a clear case of excessive force by Defendant Smith without intervention by Defendant Aziz, in violation of both the state and federal constitutions.

B. *Monell* Claim for Municipal Liability

Plaintiff will also name the Chief of Police in his official capacity, and the City will be liable for the violation of Mr. Baroz's civil rights given clear evidence Defendant Smith was acting pursuant to his training and standard procedure, and the lack of any discipline resulting from Defendant Smith's misconduct at that time. The later firing and IA investigation of Mr. Baroz came too little too late for Mr. Baroz, even though by then it should have been known that Defendant Smith was a liability to the APD. Alamosa will be found liable under *Monell v. Dep't of Soc. Servs.*, 435 U.S. 658 (1978).

To establish municipal liability, a plaintiff must show 1) the existence of a municipal policy, practice, or custom, and 2) a direct causal link between the policy, practice, or custom and the injury alleged. *City of Canton, Ohio v. Harris*, 489 U.S. 378, 385 (1989). This policy, practice, or custom does not have to be a formal policy. A policy or custom can be established in many ways, including demonstrating the existence of

> (1) a formal regulation or policy statement; (2) an informal custom amounting to a widespread practice that, although not authorized by written law or express municipal policy, is so permanent and well settled as to constitute a custom or usage with the force of law; (3) the decisions of employees with final policymaking authority; (4) the ratification by such final policymakers of the

> decisions – and the basis for them – of subordinates to whom authority was delegated subject to these policymakers' review and approval; or (5) the failure to adequately train or supervise employees, so long as that failure results from deliberate indifference to the injuries that may be caused.

Bryson v. Oklahoma City, 627 F.3d 784, 788 (10th Cir. 2010) (citation and quotations omitted).

Here, *Monell* liability will be shown in several ways. **First**, it is clear Defendant Smith's conduct is standard operating procedure. Other officers witnessed the misconduct, and it is obvious in the reports and BWC—and no one was disciplined or even investigated. Despite Mr. Baroz's repeated protestations, it appears no one checked Smith's BWC. We are confident Defendant Smith will testify he acted according to his understanding of standard procedure and their training and supervision. All of this renders the City liable. *See Moore v. Miller*, 2014 U.S. Dist. LEXIS 72452, at *27 (D. Colo. May 28, 2014) ("[I]f Defendant Police Officers testify that they acted in accordance with their training and it is found that they committed constitutional violations, the reasonable inference is that, had the City implemented a different training policy on the use of force, Mr. Moore would not have been subjected to the amount force used in this case."); *Ortega v. City & Cnty. of Denver*, 944 F. Supp. 2d 1033, 1039 (D. Colo. 2013) (Martinez, J.) ("Nixon and Devine both testified that the amount of force that they used in this incident was in accord with how they were trained by Denver. Therefore, a reasonable juror could find that, had Denver implemented a different training policy on the use of force, Plaintiffs would not have been subjected to the amount force used in this case."); *Bass v. Pottawatomie County Public Safety Center*, 425 Fed. Appx. 713 (10th Cir. 2011) (unpublished) (affirming jury verdict for county liability given evidence "Jail's deficient supervision practices were a proximate cause of Mr. Bass's injuries"). The failure by the Chief of Police and City to train officers in this regard was deliberately indifferent "to the rights of persons with whom the police come into contact." *Canton*, 489 U.S. at 388. Deliberate indifference may be shown by "evidence of a single violation of federal rights, accompanied by a showing that a municipality has failed to train its employees to handle recurring situations presenting an obvious potential for such a violation, is sufficient to trigger municipal liability." *Allen*, 119 F.3d 842, citing *Board of County Comm'rs v. Brown,* 520 U.S. 397 (1997); *Canton,* 489 U.S. at 390 n.10; *see, e.g., McGill v. Corr. Healthcare Companies, Inc.*, No. 13-CV-01080-RBJ-BNB, 2014 WL 5423271, at *7 (D. Colo. Oct. 24, 2014) (unpublished) (denying summary judgment given disputed facts regarding "inadequate training").

Second, as you know there are multiple other instances of misconduct and violence by Defendant Smith which support the finding of municipal liability. Defendant Smith was a repeat offender against the civil rights of individuals he comes into contact with. These multiple other instances of violations, combined with the facts of this case, will give rise to an inference of an informal custom or pattern of violations. *See Bordanaro v. McLeod*, 871 F.2d 1151, 1167 (1st Cir. 1989) ("Post-event evidence can shed some light on what policies existed in the city on the date of an alleged deprivation of constitutional right."); *McRorie v. Shimoda*, 795 F.2d 780, 784 (9th Cir. 1986) ("Policy or custom may be inferred if, after [constitutional violations], ... officials took no steps to reprimand or discharge the [subordinates], or if they otherwise failed to admit the [subordinates'] conduct was in error."); *Grandstaff v. City of Borger*, 767 F.2d 161, 171 (5th Cir. 1985) ("[S]ubsequent acceptance of dangerous recklessness by the policymaker tends to prove his preexisting disposition and policy.").

In sum, we believe there are multiple viable theories of *Monell* liability in this case against the Chief of Police and the City, and we are confident that should we be forced to litigation, discovery will reveal additional information which will buttress Mr. Baroz's *Monell* claims.

III. DAMAGES

A. Compensatory Damages

Mr. Baroz endured a violent, traumatic assault resulting in significant injury including multiple cranial gashes resulting in 7 staples to close the bleeding wounds, concussion, facial lacerations and abrasions, as well as substantial pain and suffering. Defendant Smith's gratuitous and excessive violence not only physical harmed Mr. Baroz, it caused mental suffering and anguish which he continues to suffer. All of these injuries are recoverable as compensatory damages.

B. Punitive Damages

In addition to compensation for Mr. Baroz's physical injury, pain and suffering, we believe that punitive damages are likely in this case. Defendant Smith's use of violence was senseless and unnecessary. Moreover, as you are aware, Defendant Smith has a now well-known track record of violating the constitutional rights of people he encounters, including multiple other instances of excessive violence, and multiple proven instances of false reports. Internal Affairs investigations of Defendant Smith's misconduct, and his eventual termination from APA, speak volumes as to his abuse of power as an officer. We are confident a jury will agree and will reflect its outrage through a substantial punitive damages award.

The overlapping policy goals behind civil rights legislation and punitive damages—to deter future violations—render the award of punitive damages particularly compelling in the civil rights context. *Smith v. Wade*, 461 U.S. 30, 49 (1983) (stating "the deterrence of future egregious conduct is a primary purpose of both § 1983 and of punitive damages"). In such cases, "the most important indicium of the reasonableness of a punitive damages award is the degree of reprehensibility of the defendant's conduct." *BMW of North Am. v. Gore*, 517 U.S. 559, 575 (1996); *see also Qwest Services Corp. v. Blood*, 252 P.3d 1071, 1094 ("a punitive damages award should reflect 'the enormity of the offense' and 'the accepted view that some wrongs are more blameworthy than others.'").

This rights violation is exactly the type of misconduct punitive damages are designed to address, the purpose of such damages being "to express the community's disapproval of outrageous conduct" and "as a display of ethical indignation." *Reynolds v. Pegler,* 123 F. Supp. 36, 38 (S.D. N.Y. 1954); *Lightning Lube, Inc. v. Venuto*, 4 F.3d 1153 (3d Cir. 1993) (stating, "[i]n awarding punitive damages, the jury in a sense vents society's collective anger"); *Zarcone v. Perry*, 572 F.2d 52, 54 (2d Cir. 1978) (stating "[T]he abuse of official power here was intolerable, and when a jury has dealt with it severely, as it should, [courts] will not draw fine lines to restrain [the jury's] dispensation of justice."). For these reasons, we expect substantial punitive damages to be awarded in this case.

C. Attorney Fees and Costs

Finally, reasonable attorney fees and costs are recoverable by a prevailing plaintiff under C.R.S. § 13-21-131(3) and 42 U.S.C. § 1988. Statutory caps on attorney fees do not apply to claims brought pursuant to the state statute. C.R.S. § 13-21-131(2)(a). Even if a jury were to award Mr. Baroz only nominal damages—which is unthinkable given he suffered injury from violence—the County would still be liable for plaintiff's attorney fees and costs. If forced to litigate this case through trial, the amount of attorney fees incurred could easily exceed **$300,000** for plaintiff's counsel alone.

D. Comparable Verdicts and Settlements

Below, we list a number of outcomes achieved by this law firm which reflect our ability to successfully litigate this matter, as well as settlements and verdicts in similar cases which inform the

determination of a fair resolution and reflect the County's high exposure to liability should this matter proceed:

- *Michael Valdez v. Motyka and City and County of Denver*: In 2021 a jury reached a **$2.5 million** verdict for the unconstitutional shooting of Mr. Valdez and the City's failure to train officers regarding appropriate uses of force. David Maxted litigated the case pretrial, successfully defeating summary judgment and prevailing in the Tenth Circuit on interlocutory appeal. The Court also awarded about **$1.2 million** in attorney fees, for a total judgment of **$3.7 million**.

- *Estate of Yoemans v. Adams County*. MAXTED LAW LLC in 2021 reached a **$1.1 million** settlement with the County in this jail § 1983 wrongful death case. The jail failed to protect an incarcerated person from a violent individual, who killed him. MAXTED LAW LLC litigated the case through discovery and defeated summary judgment. A confidential settlement was also reached against a private medical provider.

- *Henderson v. Yuma County*. MAXTED LAW LLC in 2023 reached a **$550,000** settlement with Yuma County arising from the use of excessive force by the Sheriff of Yuma County.

- *Anonymous v. County and Private Medical Provider*. MAXTED LAW LLC in 2021 reached a **$500,000** prelitigation confidential settlement against a County and a private medical provider for failure to provide medical care in the facility, resulting in the death of the individual.

- *Hepworth v. Alamosa*. MAXTED LAW LLC in 2023 reached a **$350,000** settlement with Alamosa arising from the use of excessive force by Nick Smith.

- *Rustgi v. Reams*. MAXTED LAW LLC in 2021 reached a **$325,000** with Weld County arising from the use of excessive force against a pretrial detainee. A federal judge denied the defense motion to dismiss prior to the settlement.

IV. CONCLUSION

MAXTED LAW LLC has advised Mr. Baroz that he has meritorious legal claims under Colorado and federal law against APD Officer Nick Smith, Jareb Aziz, as well as the City of Alamosa, and the Chief of Police in his official capacity. Mr. Baroz wishes to reach a fair resolution of his legal claims and is prepared to resort to legal action. However, he is amenable to resolving his claims before the commencement of formal legal proceedings. Due to the impending statute of limitations, if you are interested in discussing options to resolve these issues or pursue a tolling agreement, please contact us by **April 12, 2023**. We look forward to hearing from you.

Sincerely,

s/ David G. Maxted

_____

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