



**TO:** Members of the Troy City Council  
**FROM:** Lori Grigg Bluhm, City Attorney  
Christopher J. Forsyth, Assistant City Attorney  
**DATE:** December 30, 2009  
**SUBJECT:** Molnar v. Troy et. al.

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The Sixth Circuit Court of Appeals entered an opinion in the City's favor in the Molnar v. City of Troy et. al case on December 29, 2009. The decision affirms the District Court's dismissal of the case Gerald Molnar v City of Troy et al. Plaintiff Gerald Molnar filed a lawsuit against the City of Troy, Troy Police Officer Janice Pokley, Care House, Care House forensic interviewer Amy Allen and Plaintiff's former spouse Renee Molnar. The lawsuit was filed in Federal District Court – Eastern District of Michigan, and assigned to Judge Gerald Rosen. Plaintiff filed this lawsuit based on an investigation of Plaintiff for inappropriately touching an eight year old in the City of Troy. As a result of the investigation, the Oakland County Prosecutor charged Plaintiff with Criminal Sexual Conduct in the Second Degree. Judge Drury of the 52-4 District Court conducted the preliminary examination in the matter, and determined that there was probable cause for the criminal charges against the Defendant, who was then bound over for trial. The jury for the criminal trial ultimately found Plaintiff not guilty. He then filed this lawsuit against the Defendants. In his complaint, filed under 42 U.S.C. Section 1983, Plaintiff alleged that the various Defendants conspired to violate his constitutionally protected parenting rights, right against unlawful seizure, due process rights, and the right to equal protection under the law. Plaintiff also alleged a state law intentional infliction of emotional distress claim.

We initiated an aggressive joint defense of the City and Officer Pokley, and filed a Motion for Summary Judgment as our first responsive pleading. We argued that Plaintiff's claims were barred because the claims were previously litigated in his state court criminal proceeding. We alternatively argued that his claims should be dismissed, since he failed to plead a viable claim against the City, and that Officer Pokley was entitled to qualified immunity because her investigation of Plaintiff was fair, reasonable and supported by probable cause. On August 28, 2008, Judge Rosen stated from the bench that he was granting our Motion for Summary Judgment, and dismissing Plaintiff's complaint from the bench.

Shortly thereafter, Plaintiff appealed Judge Rosen's decision, asking the United States Court of Appeals for the Sixth Circuit to reverse the dismissal of his case. A three judge panel of the Court of Appeals affirmed Judge Rosen's dismissal holding that his claims were barred because they were litigated in the state court criminal proceedings. Since the minor is identified in the Court of Appeals opinion, we have not included it in the agenda packet.

On January 12, 2009, we received notice that Plaintiff has petitioned the Court to rehear the matter en banc. En banc review is an extraordinary request to ask all active Judges for the Sixth Circuit to reopen and rehear the appeal, which is rarely granted. The Court will inform us within the next 30 to 60 days whether or not Plaintiff will be granted the right of an en banc review, and we will continue to advise Council on the status of the case.

Please let us know if you have any questions.