

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
LEWIS T. BABCOCK, JUDGE**

Civil Case No. 06-cv-02148-LTB-BNB

DARRELL FORTNER and  
JENNIFER FORTNER, d/b/a Diamond/Dundee Tree Service,

Plaintiffs,

v.

SARAH PELTON, individually and in her official capacity as ATF agent,  
ATF AGENTS DOG 1, CAT 2, AND HORSE 3,  
THE CITY OF COLORADO SPRINGS,  
MAYOR LIONEL RIVERA, individually and in his official capacity as Mayor of C/S,  
KATHRYN YOUNG, individually and in her official capacity as City Clerk of C/S,  
DARREL PEARSON, individually and in his official capacity as City Forrester of C/S,  
JAMES A. CHOATE, individually and in his official capacity as Sergeant for El Paso County  
Sheriff's Office,  
TERRY MAKETA, individually and in his official capacity as Sheriff of El paso County,  
Colorado,  
SHANE WHITE, individually and in his official capacity as Asst. City Attorney for the City  
of Colorado Springs, CO, and  
JAMES E. MCGANNON, individually and in his official capacity as City Forrester for the  
City of Colorado Springs, CO,

Defendants.

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**ORDER**

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This case is before me on the Recommendation of the Magistrate Judge that Defendant Pelton's Partial Motion for Summary Judgment (Doc 220) be granted and that judgment enter in favor of Defendant Pelton on all of Plaintiffs' claims against her. The Recommendation was issued and served on February 9, 2009. Plaintiffs have now filed specific written objections to the recommendation. I have therefore reviewed the

recommendation *de novo* in light of the file and record in this case. On *de novo* review I conclude that the recommendation is correct.

Accordingly

IT IS ORDERED that Defendant Pelton's Partial Motion for Summary Judgment (Doc 220) is GRANTED and judgment shall enter in favor of Defendant Pelton on all of Plaintiffs' claims against her.

BY THE COURT:

s/Lewis T. Babcock  
Lewis T. Babcock, Judge

DATED: March 23, 2009