

From deliverance to damnation

After Fox News appearance, flood survivor Roy Ortiz faces a deluge of negativity

by Michael de Yoanna

When his silver Pontiac plunged into a river during last September's floods, Roy Ortiz could not have known the quiet life he had built for his family in Broomfield would soon disappear.

He became a household name after his "miraculous" drama played out on television, making headlines around the country. Somehow he lived as raging water gushed through his crumpled, overturned sedan by inching his way to the back seat and fitting his head into a small air pocket. He called his wife. He called 911. He prayed to God. It seemed like two hours passed, Ortiz would later claim, before rescuers splashed up to his car in a rubber raft to find him tapping on the window and yelling for help.

Once at Good Samaritan Medical Center, he was treated for hypothermia and other ailments.

Then, in front of cameras at a press conference at the medical center, Ortiz recounted the ordeal. He was deeply thankful and emotional.

"I love everybody," Ortiz said.

He even hugged John Cook, a rescuer with the North Metro Fire Rescue District. It was the happy ending everyone seemed to want. Yet the next chapter in Ortiz's story was starting to write itself. Something Cook said during the press conference stood out.

"We didn't know that he was in the car still," Cook admitted.

Now, several months later, a legal notice Ortiz's lawyer sent to several entities, including North Metro Fire, the City and County of Broomfield and Boulder County, alleges that perhaps rescuers should have known Ortiz was still inside. Ortiz, also known as Rogelio Sosa-Ortiz, is seeking up to \$500,000 for his family, according to the filings that also maintain there were no signs on Sept. 12 to let drivers know that Dillon Road near U.S. Hwy. 287 in Broomfield was perilous. Had warnings been posted, Ortiz may not have proceeded in his 2003 Grand Prix, followed by two trucks. All three vehicles tumbled down 15 feet into the river. Ortiz's car overturned in the swollen, rushing waters.

"Somehow, they didn't realize Roy was there," Ed Ferszt, Ortiz's attorney, told *Boulder Weekly*.

A report by Boulder County

Sheriff's Deputy Jeanette Cunning seems to confirm that: "It was undetermined at that time if the vehicle contained any survivors. Rescue crews and the dive team had secured the sedan in order to see if anybody was inside. Once rescuers were able to pull the vehicle up onto its side, they broke out a window and determined that the party who had been in it was in fact alive."

On the scene was Ortiz's wife, Patricia Ortega, and their children. "At one point during the operation," an unnamed officer or deputy "mistakenly informed Mrs. Ortega" that Ortiz "was deceased," Ferszt wrote. That has caused the family great emotional stress.

When news of the legal maneuvers broke earlier this month, Ortiz became a pariah. Headlines declared: "Colorado man pulled from violent floodwaters to sue saviors for not rescuing him sooner."

The Denver Post's editorial board ravaged Ortiz on March 6: "Now, if there is evidence that rescuers were grossly negligent, that would be one thing. But Ortiz and many others were victims of a natural disaster of epic proportions. Perhaps he should sue Mother Nature, too."

There is no suit — not yet. Ferszt added that there may not be one. The paperwork he filed signals a possible suit, triggering a governmental investigation into events and actions that day.

Meanwhile, the online commentators have issued their own verdict. "They should have let Ortiz drown," reads a typical comment.

In a brief phone interview, Ortiz explained that he turned to Ferszt because of his lingering medical issues, \$40,000 in medical bills and a desire to know if the government did everything properly during the flood.

Now, seeing the comments online and receiving some directly and through his attorney, Ortiz said he is afraid.

"I fear for my family," Ortiz told *Boulder Weekly*. "There has been a lot of angry responses." He wouldn't elaborate on the nature of the responses, but said some were threatening. He added that he was considering moving "for fear of being safe for me and my family."

It was in the middle of this month that online critics became especially vocal. That was after Ortiz and his attorney appeared on Fox News' *The Real Story with Gretchen Carlson*. During the interview, Carlson noted her viewers'

Still captured from video



Trying to tell his side of the story on Fox News: Colorado flood victim, Roy Ortiz

potential “sense of anger that you would possibly be suing the rescuers... when your client is alive.”

Then she put forth a question that seemed to come out of nowhere: “And by the way, is Mr. Ortiz a U.S. citizen? Is he here legally in this country?”

“That has no bearing on this case...” Ferszt began, Carlson cutting him off.

“I think our viewers would like to know that,” she said. “Is he in this country legally or not?”

Ferszt persisted: “That has no bearing on this case and it certainly doesn’t prevent him from presenting any civil claims. ... That’s completely irrelevant to the matter at hand.”

“OK,” Carlson replied. “You told me earlier in the commercial break that you believe he is undocumented and that he is not here legally in this country.”

Ferszt tried again to explain, but Carlson quickly ended the segment.

Asked by *Boulder Weekly* whether Ortiz has legal grounds to be in the United States, neither Ferszt nor Ortiz would immediately answer. “No comment,” Ferszt said.

Ever since the Fox News segment aired, Ortiz has been pilloried in blogs as an “illegal alien” and a grifter. A typical post, unedited, reads: “I’m sick and tired of these cockroaches from south of the border scamming our tax paying \$, welfare benefits and our jobs. Also, that cockroach loving POS [piece of shit] lawyer needs to be toe-tagged and sent back to Mex. along with his client.”

Another negative posting, one of thousands online, states: “Nice job Gretchen for cutting that forked tongue lawyer off at the end. He can file all the suits he wants, but make him do it from his own country. WE, as Americans, have rights too! DEPORTATAION!!!”

And another: “Too bad he didn’t die.”

And another: “Thank God for Gretchen! Thank God for FOX News!”

Pastor Damaso Morales has heard

about the controversy. He has known Ortiz for about a decade, he said. Ortiz, he added, is an upstanding member of Taernaculo de Restauracion, or Tabernacle of Restoration, church in Aurora, part of the International Pentecostal Holiness Church community. “Our Mission is to develop our church into a community of multicultural believers that are well equipped,” the church website states. “Our church gives the people an opportunity to understand and experience the joy of a new life, new levels of maturity and to be part of a community of love.”

Morales declined an in-person interview, but he confirmed via phone that Ortiz is a co-pastor in the church. He said Ortiz has always worked hard to provide for his family: “I can tell you that Roy is a good man. He’s a father, a friend. That is the only thing I can say about him.”

Ferszt’s paperwork is on the desk of Deputy Boulder County Attorney David Hughes, who will respond to the claim. He’s also fielding scores of press calls.

“I’ve received more calls about this case than any other,” he said. “It’s just unbelievable.”

Ortiz’s immigration status may not even matter.

“I’d be surprised if it comes up,” Hughes said.

Both Ortiz and Ferszt are now extremely wary of talking to the press. Only through persistent efforts did *Boulder Weekly* reach them. Ortiz initially said he was open to an interview at his home, but then said he wouldn’t be around.

“Sorry, will not be able to meet with you,” Ortiz texted. “I talk with my lawyer and he recommended not talk anyone because they already defamed my name too much and for the moment is better to be silent, so please excuse me and I’m so sorry for this inconvenience!!! GOD BLESS YOU.”

Respond: letters@boulderweekly.com