

director of operations when she was terminated. Defendant Montague denied plaintiff's allegations.

**Alleged Injury:** Gender discrimination and wrongful discharge.

**Case Number:** 610926

**Editor's Notes:** Per plaintiff's counsel Groedel, a motion for new trial and to recuse Judge Sutula was subsequently filed based on alleged bias and inappropriate behavior of the judge toward plaintiff, who had previously dated the judge's ex-husband.

## Cuyahoga County

**United States District Court — Cleveland**

### Police Shooting Case Settles Prior to Trial

**Case Caption:**

Harriet Green, Administratrix of the Estate of Ricardo Mason v. Robert Taylor, Matthew M. Baeppler, et al.

**Settlement:** \$1,000,000

**Judge:** Solomon Oliver Jr.

**Settlement Date:** 2/8/2008

**Attorneys:**

**Plaintiff:** David B. Malik, Chesterland  
Alphonse A. Gerhardtstein, Cincinnati  
Dennis J. Niermann, Cleveland

**Defendant:** Joseph F. Scott; William F. Gibson;  
Awatef Assad, Cleveland (Taylor)  
Thomas J. Kaiser; Joseph G. Hajjar,  
Cleveland (Baeppler)

**Facts:** A fatal police shooting ultimately resulted in a \$1,000,000 settlement with no admission of wrongdoing by the officers involved. Plaintiff claimed the shooting of the minor decedent was unjustified.

On August 27, 2002, plaintiff's decedent, 16 year old Ricardo Mason, was a passenger in a stolen Pontiac driven by Malcolm Hoyle, also 16. Two City of Cleveland police officers, Defendants Robert Taylor and Matthew Baeppler, chased the stolen car into an alley. The scenario which followed was disputed. Plaintiff claimed

Hoyle drove the vehicle into a fence post, Defendant Baeppler then shot Hoyle in the face and Defendant Taylor shot Mason twice in the back, resulting in Mason's death. Hoyle did not die as a result of his gunshot wound. The teens were not armed.

Defendants argued that, once the stolen vehicle hit the fence post, Hoyle backed the car toward them. The officers claimed Baeppler shot Hoyle because he was attempting to run over them and the vehicle struck Taylor, who was aiming his service weapon at Hoyle. When Taylor was struck by the vehicle, he claimed his shots missed Hoyle and hit Mason instead. A grand jury cleared the officers of any wrongdoing. Hoyle was sentenced to five years probation in 2003 for voluntary manslaughter with regard to Mason's death.

This lawsuit was filed by Plaintiff Harriet Green, Mason's mother and the administrator of his estate. Plaintiff denied that Hoyle attempted to back over the officers and alleged the officers violated Mason's civil rights by employing excessive deadly force, which plaintiff claimed was unjustified and unnecessary. Plaintiff further alleged intentional infliction of emotional distress. Additionally, plaintiff claimed defendants interfered with or destroyed evidence by moving the Pontiac in an effort to disrupt plaintiff's ability to prove a claim in a probable lawsuit arising from this incident. The court dismissed all claims against Baeppler, with the exception of the spoliation claim.

Defendants contended Hoyle used the Pontiac as a deadly weapon and led the officers on a high speed pursuit through residential areas where Hoyle demonstrated a complete disregard for the safety of others. Defendants argued that, after crashing into the fence post, Hoyle remained in the vehicle and in control of the deadly weapon as the officers approached. Defendants maintained that Hoyle then assaulted Taylor by striking him with the vehicle, causing Taylor to fire his weapon in self-defense. Under the circumstances, defendants contended that Taylor was justified in responding with deadly force and argued that Hoyle's actions were the proximate cause of Mason's death. Both defendants denied the spoliation of evidence claim.

**Plaintiff Profile:** Plaintiff's decedent was a 16 year old male.

**Alleged Injury:** Death from gunshot wounds. Decedent was survived by his mother, sister, brother and maternal grandmother.

**Expert(s):**

**Plaintiff:**

Wilbur Meredith  
Accident Reconstr. – Russell Twp, OH

David Balash  
Ballistics – Canton, MI

Larry P. Danaher  
Police Procedures – Lafayette, IN

**Defendant:** David M. Grossi  
Police Procedures – Bonita Springs, FL

Clarence Chapman  
Police Procedures – Los Angeles, CA

Richard Ernest  
Ballistics – Ft. Worth, TX

Richard L. Stanford, P.E.  
Accident Reconstr. – Cleveland, OH

**Case Number:** 1:03-CV-01804-SO

## Cuyahoga County

**United States District Court – Cleveland**

### Police Officer Accused of Assault Wins Civil Rights Suit

**Case Caption:**

Demonta Eady v. City of Shaker Heights, James Mariano, et al.

**Verdict:** Defense verdict

**Judge:** Sara E. Lioi

**Date of Verdict:** 2/7/2008

**Attorneys:**

**Plaintiff:** Brandon J. Henderson, Cleveland  
Eric Norton, Cleveland

**Defendant:** D. John Travis, Cleveland  
Darlene E. White, Cleveland  
Timothy J. Fitzgerald, Cincinnati

**Facts:** A civil rights suit was brought after a man was arrested for driving under the influence of an intoxicating substance following an automobile crash. Plaintiff alleged police violated his civil rights by assaulting him. A U.S. District Court jury deliberated for 1.5 hours before finding in favor of defendant police officer. All other defendants were granted summary judgment before trial.

Around midnight on January 28, 2005, Plaintiff Demonta Eady was involved in a single car motor vehicle accident in Shaker Heights. Defendant James Mariano, a lieutenant with Defendant City of Shaker Heights police department, saw plaintiff's vehicle

leave the roadway, strike the curb and come to rest against a utility pole. Plaintiff and Lt. Mariano exited their vehicles. Backup police officers arrived and plaintiff was administered field sobriety tests, which he failed. Plaintiff was placed under arrest and transported to the Shaker Heights Police Department. The following afternoon, he was taken to the hospital where he was diagnosed with a fractured left tibial plateau.

Plaintiff alleged that, after he was arrested and handcuffed, Lt. Mariano violated his civil rights by kneeling him and breaking his leg. Plaintiff denied that he resisted arrest. Plaintiff alleged cruel and unusual punishment, deprivation of medical care, unconstitutional policies and practices, conspiracy, assault and battery, intentional infliction of emotional distress and malicious prosecution. Plaintiff's expert testified that the fracture was consistent with plaintiff's allegations.

Defendants denied plaintiff's allegations and contended plaintiff was never kneeed. They contended plaintiff resisted arrest and, in fact, was convicted of that offense. Defendant's expert testified that plaintiff was driving an estimated 70 mph in a 25 mph zone, the fracture was consistent with plaintiff's knee striking the dashboard and there was a scuff mark under the dash from plaintiff's knee striking it. Defendant's use of force expert testified that Lt. Mariano complied with the standard of care on the use of force.

**Plaintiff Profile:** Plaintiff was a single black male in his late 20's employed as a stock/delivery person.

**Alleged Injury:** Left tibial plateau fracture.

**Jury Deliberations:** 1.5 hours

**Settlement Efforts:** Last Demand: \$825,000  
Last Offer: None

**Expert(s):**

**Plaintiff:** Robert J. Hampton, D.O.  
Orthopedist – Cleveland, OH

**Defendant:** Henry P. Lipian  
Accident Reconstruction – Grafton, OH

Brendan M. Patterson, M.D.  
Orthopedist – Cleveland, OH

Samuel D. Faulkner  
Police Procedures – Cleveland, OH

**Case Number:** 1:06-CV-00548-SL

**Editor's Notes:** Per defendant's counsel, plaintiff was inconsistent in his testimony. He also denied resisting arrest, even though he had been convicted of that offense.