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A federal jury has slapped the city of Denver with a \$ 2.25 million civil rights verdict for the death of a 22-year-old in a collision with a speeding police car.

The verdict was the first reported since the U.S. Supreme Court limited plaintiffs' right to recover civil rights damages in collisions caused by the police, said lead plaintiff's lawyer Timothy M. Rastello, a partner in the Boulder, Colo., office of Denver's Holland & Hart.

In *County of Sacramento v. Lewis*, 523 U.S. 833 (1998), the Supreme Court held that plaintiffs may recover only if a law enforcement officer's conduct shocks the conscience. If the officer is responding to an emergency, the plaintiff must show that the officer intended to harm. In non-emergency situations, which a Colorado federal judge said applied in the Denver case, the plaintiff must prove deliberate indifference (equivalent to reckless disregard), Mr. Rastello said.

Most police departments thought that the Lewis decision effectively granted them immunity, Mr. Rastello said. "It's very gratifying that there is still going to be a remedy for the most outrageous cases," he said.

Lead defense attorney Theodore S. Halaby, a partner at Halaby Cross & Schluter in Denver, said he plans to appeal if post-verdict motions fail. "To our knowledge, there has been no civil rights claim ultimately sustained arising out of an automobile accident," he said. If filed as a tort claim, he said he told the jury, "this was a slam-dunk."

On June 4, 1989, at 4 a.m., Randy Bartel was taking a date home when Denver police officer Michael Farr, driving 65 mph in a 35-mph zone, with flashing lights but no siren, ran a red light and broadsided Mr. Bartel.

Mr. Bartel's mother, Colleen K. Williams, sued the city, claiming its conduct and the officer's were unconstitutional.

Mr. Rastello said that he had "damning evidence" about, among other things, the police department's hiring Mr. Farr despite advice that he had a bad driving record.

But Mr. Halaby kept that information from the jury by having the city admit partial liability, leaving for the jury only the issue of whether the officer's conduct that night met Lewis's "shocks the conscience" standard.

*Williams v. City and County of Denver*, No. 90-N11761la.

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