Police Cases Spur Business

Brutality suits provide work for plaintiffs bar.

BY AMANDA BRONSTAD

Police brutality litigation is becoming a hot practice area for plaintiffs lawyers, who are lured by big verdicts and settlements and by the increased availability of videos depicting confrontations with officers.

Although civil rights attorneys say these cases present significant hurdles, more mass torts and personal injury lawyers see them as a way to build business and pursue social justice at a critical time.

“It’s one of the hot practices of law right now you see being reported and, because of that, you’ll see a lot of attorneys jump into it,” said Daryl Washington, managing partner of The Law Offices of Daryl K. Washington in Dallas. Washington spoke about the cases at the annual conference last month of the National Bar Association, a predominantly black lawyers group.

Kopf urges judges to blog, tweet

Jurist defends Hercules and the umpire, but regrets burning bridges.

BY TONY MAURO

A month after U.S. District Judge Richard Kopf of Nebraska abruptly shut down his controversial blog, he still believes federal judges and even U.S. Supreme Court justices would do “far more good than harm” if they publicly blogged and tweeted.

“Properly done, the public’s perception of the federal judiciary is enhanced when judges speak and write candidly about our courts,” Kopf said in an interview with...
Settlements, Videos Spur Plaintiffs Bar To Pursue Police Brutality Cases

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During the conference, James Montgomery of James D. Montgomery and Associates in Chicago said police-misconduct cases have become a “cottage industry” for lawyers.

How much cities are paying out to specifically resolve brutality claims and lawsuits is uncertain, but Montgomery said that cities running the nation’s 10 largest police departments have paid $1.2 billion between 2010 and 2014 to plaintiffs.

“In this country, that’s $500 million in legal fees,” he said. “So it’s a great avenue to make money. And the police are feeding you new cases every day.”

In October 2013, the American Association for Justice founded a police-misconduct litigation group, with 70 members, the group fits well within a bar association that represents victims in mass torts or class actions, said its founder, Antonio Romanucci, a partner at Chicago’s Romanucci & Blumenthal.

“Because many lawyers handle traditional personal-injury cases, they’re coming across a lot more police misconduct,” he said. “There’s just more awareness, therefore a greater percentage of those cases get reported and lawyers are looking at them.”

Previously, plaintiffs lawyers avoided police-misconduct cases because of the heavy discovery costs and the difficulty in overcoming government-immunity defenses. During the National Bar Association conference, Collette Flanagan, founder of the advocacy group Mothers Against Police Brutality, talked about the challenge she faced finding an attorney after a Dallas officer killed her son, Clinton Allen, in 2013. “I had no one to have me represented,” she said.

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Shannon Kennedy, a partner at Kennedy Kennedy & Ives in Albuquerque, said video evidence has become central because it can impeach testimony by police officers trained in justifying shootings. “There are not more cases, but the evidence is better because we have cameras capturing the police misconduct,” said Kennedy, who settled a case for $5 million last month on behalf of a homeless man’s family. Her client’s 2014 death at the hands of Albuquerque police was captured on video by an officer’s body camera.

With or without video, lawyers are encouraged for another reason: Police-brutality cases have lured some eye-popping verdicts and settlements. “The landscape has certainly changed in the last two years in these cases,” Kennedy said. “Now municipalities, now juries, will award multimillion-dollar verdicts to compensate families who have lost someone in a shooting.”

Several cities, including Chicago and New York, are settling these cases before they get too expensive and, in some instances, before they even are filed. The $5.9 million settlement reached last month in the 2014 death of Eric Garner was “the largest settlement in the city of New York for this type of case,” said Jonathan Moore, a partner at New York-based Beldock Levine & Hoffman who represents Garner’s family.

Garner, a black man, died after an officer placed him in an apparent chokehold during an arrest in Staten Island.

Lawyers for cities and counties caution that awards that large are rare—and that most misconduct cases settle for a few hundred thousand dollars. William Helland, a shareholder at Chamberlain, Hrdlicka, White, Williams & Authry in Houston, said he settled one such case for $5,000. “So many of these cases end up with the plaintiff getting nothing,” he said. “I just don’t think there’s big money in it.”

CIVIL-RIGHTS LAWYERS CRITIQUE

Other lawyers criticized the entry of personal-injury lawyers in an area dominated by civil-rights attorneys. “In many cases, lawyers who have a straight-personal-injury practice are incapable of representing plaintiffs in civil-rights cases because they don’t understand the nuances of civil-rights law,” Moore said. “It’s a complicated area that’s changing almost daily.”

L. Chris Stewart, managing partner of Atlanta’s Stewart, Seay & Felton, which primarily handles personal-injury litigation, said money wasn’t the driving force when he began taking calls about police brutality less than five years ago. He represented a woman who suffered a shoulder injury during a false arrest for shoplifting, he said.

“It was just wrong,” said Stewart, who now represents the family of Walter Scott, a black man who was shot in the back in April by a white police officer in North Charleston, South Carolina. A bystander’s video of the incident prompted nationwide calls for officers to wear body cameras. “If you pick the right cases and go after them aggressively, you can have some success. You also can create a lot of change.” Still, most cases don’t feature video evidence, and there are other challenges. Police officers can be held liable for punitive damages, but few carry insurance or can otherwise pay a large settlement or judgment. And officers almost always cite the defense of qualified immunity, which shields government officials from liability for constitutional rights violations.

Many plaintiffs bring so-called Monell claims, named for the U.S. Supreme Court’s 1978 decision in Monell v. Department of Social Services, allowing local governments to be sued for civil rights violations. But such claims aren’t easy—lawyers have to prove the officers were following governmental policies when they committed unconstitutional acts.

And a video isn’t a slam-dunk for the victim’s attorney. Lawyers on both sides said such evidence often turns out to support the officer’s story. In other cases, the camera malfunctions or the video isn’t that reliable.

“You can’t stop at whether there’s video or not,” said Larry Simmons, a principal at Germer in Houston who rep

Read the full story here: https://www.nlj.com/article/75103-settlements-videos-spur-plaintiffs-bar-to-pursue-police-brutality-cases

A View Into a Shadowy World

BY MICHAEL D. GOLDBHAER

It’s been called “the most brazen case of New Jersey-style corruption—ever.” The “Jersey Sting” of 2009 netted five rabbis, the mayor of Hoboken and Secaucus, and a former burlesque star named Hope Diamond who had become deputy mayor of Jersey City. But easily the most colorful figure was an ultra-Orthodox kidnapper named Levy Izhar Rosenbaum, who for a decade hawked Israeli kidneys with impunity at American medical establishments.

As of this first and only use of the National Organ Transplantation Act, Rosenbaum’s prosecution and 2011 guilty plea drew attention to a shadowy trade that, according to the nonprofit Organs Watch, rips 10,000 kidneys each year from the bodies of the world’s most desperate. Europe experienced a similar moment in 2013, when a court in Kosovo convicted five members of a kidney trafficking ring. The trade came out of the shadows in Africa and Latin America in 2010, when the Kenyan KwaZulu hospital group pleaded guilty to aiding the transplant of black-market kidneys, mostly from Brazil.

The common denominator was the complicity of Israeli transplant doctors and middlemen. But Israel has responded nimbly, and set a rate of criminal enforcement that may lead the world. Prosecutors there estimate they have brought seven cases involving two dozen alleged kidney traffickers since 2007.

“Israel has a deservedly dubious reputation in this business, but to their credit they have cleaned up their act—dramatically so,” said Daniel Danovitch, who directs the transplant program at the University of Pennsylvania. “But the Israelis have brokern brokered deals all around the world. Nevertheless, Israel is to be commended for really taking a strong stance on this issue,” said Frances Delmonico of Harvard Medical School.

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Israel keeps popping up in kidney-trafficking headlines because it has one of the world’s worst organ shortages. The simple reason is that some Orthodox rabbis refuse to declare a person dead until his heart stops beating, at which point his kidneys are useless.

The Kosovo and South Africa scandals led to a policy change in Israel in 2008. The National Health Service stopped reimbursing costs for transplant tourism. A new brain-death law changed the procedure for declaring the moment of death. A new organ-transplant law encouraged legal kidney donation by giving donors and transplant patients priority on organ waiting lists and perks at national parks. It also made prosecution easier. Organ watchers believe that criminal enforcement is needed to keep Israel from backsliding. It surely cracks open a hidden world.

By Michael D. Goldhaber

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