



The Voice

And The Defense Wins

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DRI Governmental Liability Committee members [Steven F. Coronado](#) and [Christopher L. Heigele](#), partners in **Coronado Katz LLC** in Kansas City, Missouri, recently obtained summary judgment in the U.S. District Court for the Western District of Missouri for one of their local municipal clients, its police chief, and former police chief in a Section 1983 action for alleged excessive force, failure to train its police officers, and deliberate indifference.

The plaintiff was attending a late-night get together at her brother's apartment, when she, her daughter, and her niece became involved in a heated argument with the apartment manager and her family. The manager instructed plaintiff and her family to leave the complex. When the plaintiff did not leave, the manager called the police to have them cited and removed as trespassers.

Two police officers arrived to find an ongoing argument between the plaintiff, her family, and the manager and her family, and instructed the plaintiff to leave. The plaintiff alleged she told the police she needed to retrieve personal belongings from a nearby apartment and turned and started walking away. When touched by one of the officers, the plaintiff turned on him in an aggressive manner and began hurling racial epithets at the officers (plaintiff is black and the officers are white). The plaintiff admitted the officers were respectful, but placed plaintiff on the ground to effect the arrest for failing to follow orders. The officers used open-handed techniques and did not strike or trip the plaintiff to place her on the ground. The plaintiff was transported to the police station, complaining of knee pain. She was evaluated by an EMT, who found no apparent significant injury. The plaintiff refused transfer to the hospital. She was released on her own recognizance, with a citation for failure to follow a lawful order. She sought medical treatment the next day and was diagnosed with a leg fracture. The plaintiff subsequently pleaded guilty to the municipal citation. She never notified the city of her injury, prior to filing suit two years later.

In entering summary judgment, the court found there was no evidence of failure to train or deliberate indifference to plaintiff's rights on the part of the city and the police chiefs. The city's use of force policy was ruled constitutional. The court also ruled the fact that the plaintiff pleaded guilty to the municipal charge of failing to follow a lawful order established probable cause for the arrest as well as the lawfulness of the arrest. The court also granted defendants' *Daubert* motion to strike plaintiff's police practices expert, Michael Lyman, Ph.D., finding his opinions *ipse dixit*, nothing more than improper legal conclusions and credibility determinations.

Following the entry of summary judgment and the ruling on the *Daubert* motion, the remaining claims were resolved to the satisfaction of the parties.

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