

# DBR DAILY BUSINESS REVIEW

## Attorneys obtain \$1.77 million for teen killed in crash with cop

**Case:** Maricelly Lopez v. City of North Miami

**Case no:** 2008-35955-CA-01

**Description:** Auto negligence

**Filing date:** June 23, 2008

**Trial dates:** March 15-19, 2010

**Jury award:** \$1.77 million

**Judge:** Miami-Dade Circuit Judge Peter Adrien

**Plaintiff attorney:** Mitchell Panter, David Sampedro and Josh Wintle, Panter Panter & Sampedro, Miami

**Defense attorneys:** Cynthia Everett, Cynthia A. Everett PA, Miami

**Details:** After spending a Saturday night in Miami Beach with a sibling and friends, Omar Mieles, 19, and his girlfriend, Raiza Areas, 17, hopped into their friend's car and headed home.

It was shortly after midnight on Nov. 11, 2007, and the teens inside the Ford Focus drove east on Northwest 46th Street in Miami. They slowed at a blinking red traffic signal, saw the road was clear and drove forward.

A police officer driving a marked North Miami patrol car entered the intersection and hit the side of the young people's car at 60 mph, twice the speed limit.

Mieles and Areas were propelled out the back window and onto the pavement 75 feet away.

Mieles died of his injuries at Ryder Trauma Center two days later. The young woman survived.

Officer James Ray Thompson, then 63, did not have his siren or flashing lights on and was not responding to an emergency. He had more than two decades' worth of police experience.

**Plaintiff case:** The attorneys who represented Mieles' mother, Maricelly Lopez, argued that the police officer was fully responsible for the crash due to negligence.

Panter, the lead attorney, said he relied on the cruiser's black box to prove Thompson was speeding. Police refused to cooperate with Panter's investigation, and he accused police of omitting a pivotal



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Josh Wintle, from left, Mitchell Panter and David Sampedro of Panter Panter & Sampedro of Miami.

witness from the incident's police report. The existence of that witness was kept in internal police memos, Panter said.

"We had this cop going 60 mph, and they failed to take responsibility from day one," he said. "He was unnecessarily endangering the lives of the public at large, not to mention the kids in the car, by recklessly going 60 mph in a 30 mph zone."

Family attorneys countered claims by a defense expert that Mieleles died because he wasn't wearing a seat belt by having a medical examiner testify the teen's organs were crushed when the police car slammed into his side.

He would have died anyway, Panter argued.

"It effectively destroyed the credibility of the city of North Miami and their case," he said.

**Defense case:** The city's outside counsel argued that driver Madelayne Centeno Ibarra, 19, failed to stop at the blinking red light. Everett also contended Mieleles' death would have been prevented by a seat belt.

**Outcome:** The jury awarded Mieleles' mother \$3.54 million. That amount, however, was cut in half to \$1.77 million because the jury found Ibarra was 50 percent responsible for the crash.

**Quote:** "When the police violate the law, how are they going to expect other people to obey the law? They should be role models, not rule violators," Panter said.

**Post-verdict:** Final judgment is due to be entered this month. Because the city does not carry liability insurance, it can be responsible for only up to \$100,000 for Mieleles' death. Panter said he will pursue a claims bill in the state Legislature to pay the balance. "We're prepared to go through the legislative process to obtain a claims bill for our client," he said. "It's a difficult endeavor. It's not a shoo-in."

— Jose Pagliery