

Tuesday, January 10 at 12:00pm

# GIBSON DUNN 2024 CA MCLE BLITZ

**Jones v. City of Los Angeles:  
Dunn Achieves Historic Civil Rights Victory**

**GIBSON DUNN**


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# The making of a civil rights case

**Los Angeles Times**

CALIFORNIA

## One man's fight to hold an LAPD officer accountable for a protest shooting



Deon Jones and his legal team have gone to great lengths to prove that an LAPD officer shot him in the face with a projectile during protests in 2020. (Gary Coronado / Los Angeles Times)

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# The making of a civil rights case

## 01 A Just Cause

# Protests erupted across the country after then-Minneapolis Police Officer Derek Chauvin murdered George Floyd on May 25, 2020

**AP** U.S. News World News Politics Sports Entertainment Business Technology Health Science Oddities

## Officer charged with George Floyd's death as protests flare

By AMY FORLITI and TIM SULLIVAN May 29, 2020



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## How George Floyd's death ignited a racial reckoning that shows no signs of slowing down

By Elliott C. McLaughlin, CNN  
Updated 11:31 AM ET, Sun August 9, 2020

**NATION**

## George Floyd protests in Minneapolis: Police use tear gas, smoke grenades; more than two dozen arrested

Jordan Culver, Grace Hauck, Trevor Hughes, Joel Shannon and Tyler J. Davis  
USA TODAY  
Updated 6:08 a.m. ET May 31, 2020

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**POLITICS**

## 'Enough is enough': Thousands descend on D.C. for largest George Floyd protest yet

The outpouring of anger over an African American man's death in police custody hasn't subsided in Washington or across the nation.

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## Tens of thousands march in largest George Floyd protests so far in the US

By Nicole Chavez, Ray Sanchez and Madeline Holcombe, CNN  
Updated 10:42 PM ET, Sat June 6, 2020

Los Angeles saw multiple days of protests, including on May 30, 2020, in which police repeatedly used rubber bullets and other forms of crowd control

**Los Angeles Times**

LAPD's use of batons, other weapons appears to violate rules, significantly injuring protesters, Times review finds



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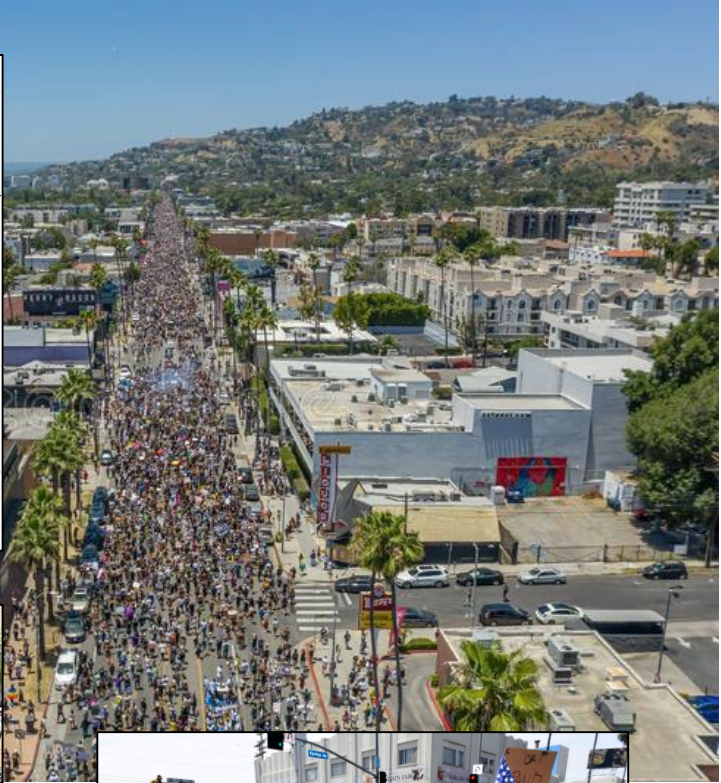
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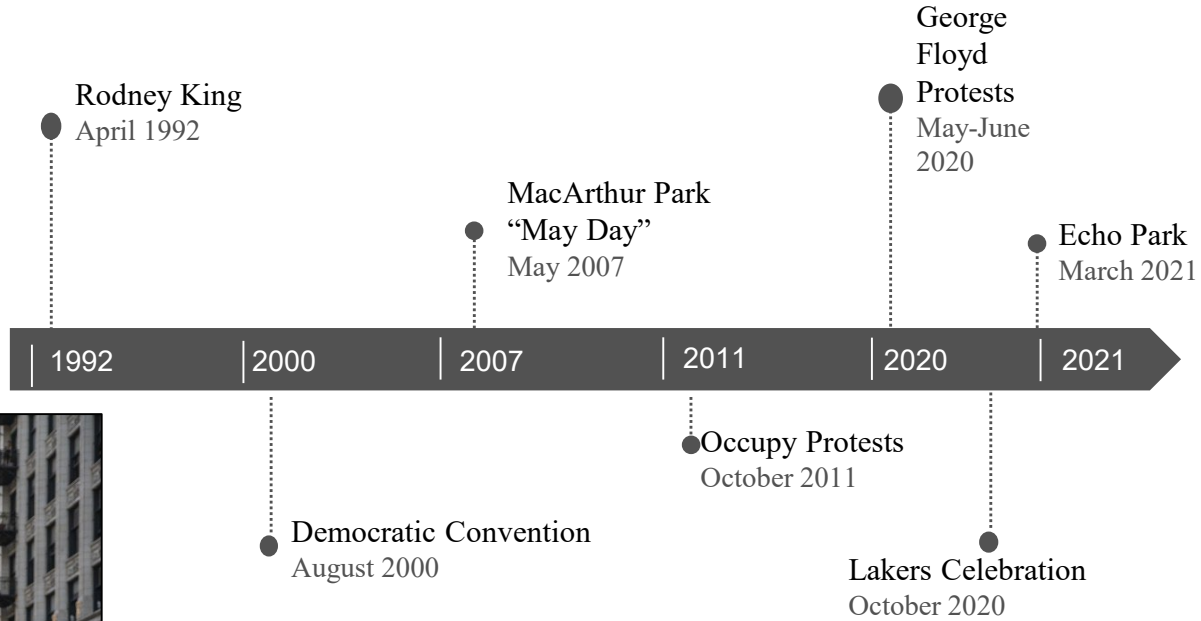


# What is a rubber bullet?



- ▶ “Rubber bullet” = 40mm “less lethal ammunition”
- ▶ Not necessarily “less lethal”
- ▶ Relevant LAPD policy for use of 40mm “less lethal” in crowd control settings:
  - ▶ May be used in crowd control situations against a single subject/suspect as a **target-specific** less-lethal option
  - ▶ Permissible only when an officer **reasonably believes** that a suspect or subject is **violently resisting arrest** or poses an **immediate threat of violence or physical harm**
  - ▶ Shall not be used for a suspect or subject who is **passively resisting or merely failing to comply** with commands
  - ▶ **Shall not be used to target the head, neck, face, eyes or spine** unless lethal force is authorized

# LAPD's Long History of Using Rubber Bullets

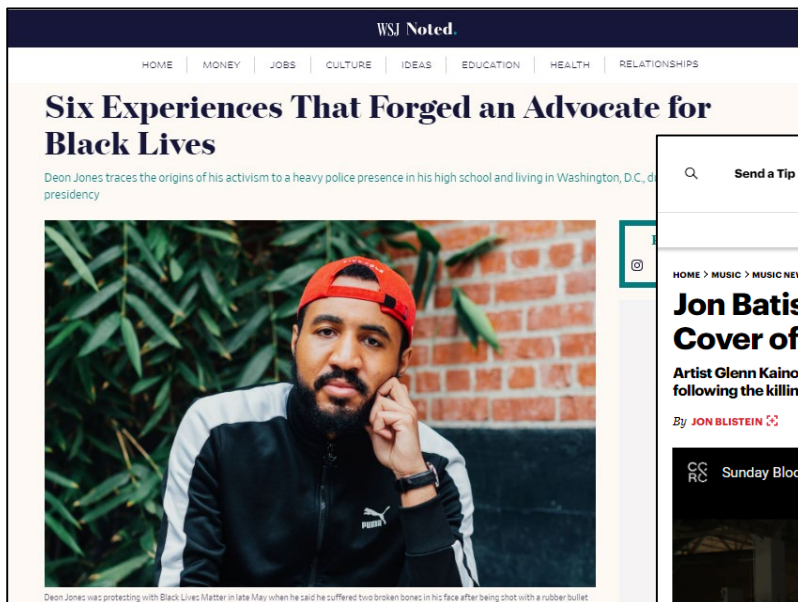
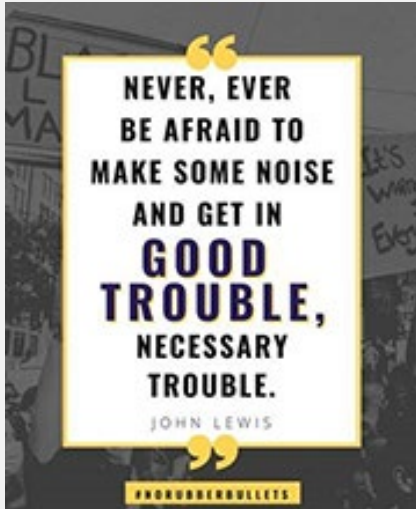


# The making of a civil rights case

- 01 A Just Cause
- 02 A Brave Client



# Who is Deon Jones?



## Los Angeles Times

Deon Jones is one of those people who sees civil rights work and political activism as a personal mission, indistinguishable from everyday life.

Only 29, he grew up in Mississippi watching Ku Klux Klan members march near his grandmother's house, and says it inspired him to work for change.

He wrote his thesis at American University on the history of the civil rights movement under the tutelage of Julian Bond. He interviewed Maya Angelou and was mentored by U.S. Rep. John Lewis. He interned in the Obama White House and worked on the political campaign of Stacey Abrams in Georgia.

## A Rubber Bullet Broke His Face. A Margin of an Inch Saved His Life.

"In addition to the trauma, it's the idea of knowing that I feel changed. I know I'm changed."



*Mr. Jones after being struck by a Rubber Bullet*

Deon Jones, an artist and entrepreneur living in LA, was peacefully protesting on May 30, 2020, when an LAPD officer shot him in the face with a rubber bullet.

# The making of a civil rights case

- 01 A Just Cause
- 02 A Brave Client
- 03 Claim Development

# Constitutional Claims

## First Amendment – Viewpoint Discrimination

1. Plaintiff was engaged in a constitutionally protected activity;
2. Defendant shooting Plaintiff in the face would chill a person of ordinary firmness from continuing to engage in the protected activity; and
3. Plaintiff's protected activity was a substantial or motivating factor in Defendant's shooting of plaintiff.

## Fourth Amendment – Excessive Force

1. Defendant seized Plaintiff's person;
2. In seizing Plaintiff's person, Defendant acted intentionally; and
3. The seizure was unreasonable.

## Fourteenth Amendment

Defendant engaged in an abuse of power that shocked the conscience, considering various factors including:

- (i) the relationship between the need for the use of force and the amount of force used;
- (ii) the extent of Plaintiff's injury;
- (iii) any effort made by Defendant to temper or to limit the amount of force;
- (iv) the severity of the security problem at issue;
- (v) the threat reasonably perceived by Defendant; and
- (vi) whether Plaintiff was actively resisting.

+ CA Constitutional Claims (Freedom of Speech, Freedom of Assembly, Due Process, Search and Seizure)

# Choices, choices . . .

- ▶ Which court to file in?
- ▶ Do we want or need to file a preliminary injunction and/or temporary restraining order?
- ▶ Are there any related cases that were already filed?
- ▶ What are the anticipated challenges?
  - ▶ How do we find the shooter?
  - ▶ Impact of *Monell* claims and bifurcation
  - ▶ Qualified immunity
  - ▶ Historically LAPD always settled these actions

# Lawsuit filed!

## Los Angeles Times

### Sidelined from protests after an injury, L.A. man sues to ban police projectiles



Deon Jones, 29, was badly injured by an LAPD projectile this summer and is suing to halt the use of such weapons on protesters. (Gary Coronado / Los Angeles Times)

BY KEVIN RECTOR | STAFF WRITER

DEC. 9, 2020 1:53 PM PT

“Doe” Defendant for shooter

Case 2:20-cv-11147-SVW-SK Document 1 Filed 12/09/20 Page 1 of 38 Page ID #:1

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Attorneys for Plaintiff Deon Jones

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DEON JONES, an individual,  
Plaintiff,

v.

CITY OF LOS ANGELES, a municipal  
entity, CHIEF MICHEL MOORE, in  
his official capacity as Chief of the Los  
Angeles Police Department, LOS  
ANGELES POLICE DEPARTMENT, a  
municipal entity, DOE 1, and DOES 2,  
10 inclusive,

Defendants.

CASE NO. 2:20-cv-11147

COMPLAINT FOR INJUNCTIVE  
RELIEF AND DAMAGES

DEMAND FOR JURY TRIAL

# The making of a civil rights case

- 01 A Just Cause**
- 02 A Brave Client**
- 03 Claim Development**
- 04 Developing the Case**

# Developing the Case

- ▶ Overcoming stonewalling
- ▶ Finding the shooter
  - ▶ Witness outreach
  - ▶ Local business and news media outreach
  - ▶ Extensive internal review of police body-worn footage
- ▶ Amended complaint Dec. 21 after identifying shooter
- ▶ Strategy for 12+ depositions
- ▶ Experts



# Finding The Shooter

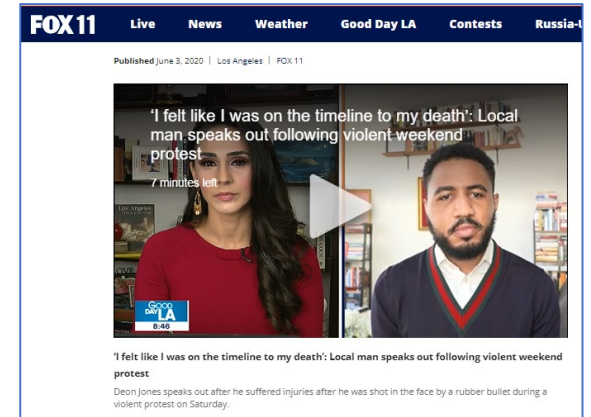


# The making of a civil rights case

- 01 A Just Cause**
- 02 A Brave Client**
- 03 Claim Development**
- 04 Developing the Case**
- 05 External Considerations**

# Advancing the client's interests in a crowded field

- ▶ Several other actions were brought by protesters also injured in Los Angeles on or about May 30, 2020.
- ▶ Included a class action brought by Black Lives Matter - Los Angeles
- ▶ Press strategy



# The making of a civil rights case

- 01 A Just Cause**
- 02 A Brave Client**
- 03 Claim Development**
- 04 Developing the Case**
- 05 External Considerations**
- 06 Trial Readiness**

# Preparing for trial



GIBSON DUNN

- ▶ Jury consultants and mock trial January 2023
  - ▶ Trial themes
  - ▶ Jury pool
- ▶ Preparing your witnesses
- ▶ Motions in limine
- ▶ Multiple days of Final Pretrial Conference

# Trial



- ▶ Opening statements
- ▶ Fact witnesses
- ▶ Expert witnesses
- ▶ Key evidence
- ▶ Closing



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Deon Jones  
Plaintiff



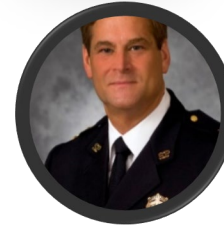
Officer Peter Bueno  
Defendant



Niara Hill  
Lay Witness



Erin Min  
Lay Witness



Deputy Chief Clark Kimerer  
Expert Witness –  
Use of Force



Jason Latham  
Expert Witness –  
Video Forensics

# The making of a civil rights case

- 01 A Just Cause**
- 02 A Brave Client**
- 03 Claim Development**
- 04 Developing the Case**
- 05 External Considerations**
- 06 Trial Readiness**
- 07 The Aftermath**

# Verdict on the Fourth Amendment!

1 **Plaintiff Deon Jones' Fourth Amendment Claim:**

2

3 4. Did Plaintiff Deon Jones prove by a preponderance of the evidence that

4 Defendant Peter Bueno violated Plaintiff Deon Jones's right to be free from an

5 unreasonable seizure of his person under the Fourth Amendment to the Constitution of

6 the United States?

7

8 Yes X No \_\_\_\_\_

9

10 **Plaintiff Deon Jones' Fourteenth Amendment Claim:**

11

12 5. Did Plaintiff Deon Jones prove by a preponderance of the evidence that

13 Defendant Peter Bueno's conduct shocked the conscience, thereby violating the Plaintiff

14 Deon Jones's rights under the Fourteenth Amendment to the Constitution of the United

15 States of America?

16

17 Yes \_\_\_\_\_ No \_\_\_\_\_

18

19 *If you have answered "Yes" to any of Question Nos. 1-5, please proceed to*

20 *Question Nos. 6 and 7. If you have answered "No" to all of Question Nos. 1-5, do not*

21 *proceed any further, and have your presiding juror sign and date this verdict form.*

22

23 **Damages:**

24

25 6. Having found in favor of Plaintiff Deon Jones and against Defendant Peter

26 Bueno on at least one of the Plaintiff Deon Jones's claims above, the jury assesses:

27

28 Damages in the following amount: \$ 250,000

-2-

1 **VERDICT FORM**

2

3 We, the jury in the above-entitled case, find the following verdict on the questions

4 submitted to us:

5

6 1. What punitive damages, if any, are awarded to Plaintiff Deon Jones?:

7

8 Punitive Damages in the following amount: \$ 125,000

9

10 *Please sign and date this form, then return it to the Court.*

11

12

13 Dated: MARCH 9, 2023

14

15 Signed: REDACTED

16 *Presiding Juror*

17

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-1-



# Following the verdict, the City approved a historic settlement

L.A. approves \$860,000 settlement for man wounded by police during 2020 protest



Deon Jones, pictured here in his downtown Los Angeles apartment in 2020, was wounded by police during a protest in 2020. He just reached a settlement with the city for \$860,000. (Gary Coronado/Los Angeles Times)



THANK YOU



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