

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**BRYCE MANIS AND MADISON
MANIS THROUGH THEIR
NATURAL TUTRIX,, TONYA
PLAISANCE**

CIVIL ACTION

VERSUS

NO: 06-6798

**ARTHUR LAWSON IN HIS
CAPACITY AS CHIEF OF POLICE
FOR THE CITY OF GRETNA, THE
CITY OF GRETNA, AND OFFICER
DOUGLASS ZEMLIK**

SECTION: "S" (3)

ORDER AND REASONS

IT IS HEREBY ORDERED that the defendants' motion for summary judgment is **DENIED**. (Document #18.)

The plaintiffs have alleged the violation of a clearly established constitutional right, pursuant to 42 U.S.C. § 1983, against Officer Douglass Zemlik in his individual capacity, and there are disputed issues of material fact as to whether the defendant's conduct was objectively reasonable in light of the legal rules clearly established at the time of the incident.¹

¹ At the hearing on the motion for summary judgment, the plaintiffs informed that they are not pursuing § 1983 claims against the City of Gretna and Arthur Lawson in his official capacity.

Further, there are disputed issues of material fact as to the plaintiffs' state-law negligence claims, as alleged in the complaint, against Officer Zemlik and Chief Lawson for their individual conduct and against the City of Gretna under a theory of *respondeat superior*.

New Orleans, Louisiana, this 1st day of October, 2008.


MARY ANN VIAL LEMMON
UNITED STATES DISTRICT JUDGE