

## **NEW HAVEN OFFICER WINS CLAIM FOR BACK WAGES**

### **Cop had been cleared of charges that he groped girls in bar**

By CHRISTIAN NOLAN

*Anthony Maio v. City of New Haven:* A police officer who was cleared of charges that he groped two female college students in a bar has been awarded more than \$235,000 following a civil suit against the city of New Haven for lost wages.

On April 19, 21008, Anthony Maio was working as an extra-duty officer in full uniform at a New Haven nightclub called, simply, Bar. Maio, then a 12-year veteran of the New Haven Police Department, who had just won an officer of the month award, was getting overtime pay for the assignment, according to his civil lawyer, Donn A. Swift, of Lynch, Traub, Keefe & Errante in New Haven.

Swift said two Quinnipiac University students, ages 20 and 21, were hiding in the bathroom at closing time as Maio made the rounds to clear out the bar. Swift said Maio remembered the two young women from earlier in the evening as they tried flirting with him. Swift, however, said Maio “brushed them off.”

Maio told them to get out of the bathroom and followed them downstairs to ensure that they left. Once outside, Swift said the two women saw another uniformed police officer and told him that Maio had molested them in the Bar bathroom.

That officer told the students to go to the police headquarters and file a report, which they later did. The women claimed Maio lured them to the bathroom, locked the door and groped them.

Following an internal investigation, Maio was arrested for unlawful sexual contact and unlawful restraint. Maio was placed on administrative leave with full pay for the next 16 months until his case went to trial.

Prior to the trial, Swift said one of the girls contacted attorney Timothy Pothin, formerly of the same firm and now of Stratton Faxon in New Haven, who handled Maio's criminal defense. The girl wanted to interview Pothin for a paper she was writing at Quinnipiac. Pothin declined.

At the criminal trial in August 2009, both women testified, as did Maio. The jury apparently believed Maio's version of events and deliberated just 15 minutes before finding him not guilty.

"The two ladies when they testified were just no believable," said Swift. They had been drinking...his story made sense. There was no ambiguity in it, no discrepancies. From [the jury's] perspective, it was pretty clear."

By November 2009, then-New Haven Police Chief James Lewis returned Maio to full duty.

Maio had been told that if the jury found him guilty, he would lose his job.

Swift then attempted to collect lost overtime pay for Maio for the 16 months he didn't work; that amount to \$62,000. However, Swift said the city would not pay up. Although a jury found Maio not guilty of the criminal charges, city officials apparently had questions about his conduct.

In June 2010, Maio filed a civil lawsuit against the city based on a state statute that allows a police officer who has been criminally charged and then found not guilty to bring a claim for reimbursement for its economic losses during the underlying prosecution. The law requires that the officer prove that he was performing his duties when the alleged conduct occurred.

The city of New Haven argued that Maio acted outside the scope of his duties when he committed the specific actions that led to his arrest. The defense further argued that Maio was acting outside the scope of his employment by generally working inside the bar instead of outside the establishment.

Swift explained that the general rule of the New Haven Police Department, written in 1982, requires an officer on extra duty at a nightclub to stay outside and in the parking lot, where the goal is to prevent vandalism and other trouble. Swift, however, said that the rule was outdated; he presented the testimony of a handful of officers who also provided police presence inside bars, not just outside.

None of the testifying officers had been told that providing a police presence inside a bar was outside the scope of their duties. Further, Swift noted that Bar was paying \$30,000 annually for

police presence inside their establishment on weekends. Managers of the Bar testified that they would not have paid that much for an officer to be outside, rather than inside.

“Nobody was enforcing this rule because it didn’t make any sense,” said Swift. “Then all of a sudden Anthony Maio comes along and [the New Haven Police Department’s] got this rule.

Swift said the city was not interested in settling the case until the trial started in early August. The city offered \$120,000 on the last day of trial. By that point, Maio wasn’t interested in settling.

Evidence presentation lasted a week before Judge Robin Wilson in New Haven Superior Court. The jury took about 2-1/2 hours before awarding all of the compensation Maio sought. He received roughly \$62,000 in lost overtime pay and \$124,107 in attorney’ fees and costs, totaling \$187,256. Also, since the plaintiffs had previously filed an Offer of Compromise for \$156,000, interest was added to the verdict award in the amount of \$47,896.

“The city of New Haven was represented at trial by Scott Karsten of Karsten & Tallberg in West Hartford. Karsten filed a motion to set aside the verdict. Karsten did not return calls for comment.

Swift said he did not expect a long appeal battle. “I don’t think they have one single issue on appeal that has any merit,” he said, adding that his client was happy with the jury’s verdict.

“He was thrilled with the outcome because he had a second jury say ‘you were in the right’ and gave him 100 percent of what he asked for,” said Swift.