Defamation and Malicious Prosecution

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Attorney Mike Johnson obtained a defense verdict in a Suffolk Superior Court case. The case entitled *Burwell v. King* involved claims for malicious prosecution, defamation and false imprisonment by plaintiff against a franchise owner of a fast food restaurant.

The lawsuit stemmed out of an incident that occurred at a fast food restaurant. The plaintiff complained to the workers of the restaurant that he had received a wrong food order. When the manager of the restaurant did not correct the order, a verbal altercation occurred between plaintiff and the manager with the manager and plaintiff lodging personal inflammatory insults at one another. A person with the plaintiff made the verbal altercation. The plaintiff alleged that he was unaware that his friend was going to act the way he did and plaintiff diffused the situation by removing his friend from the restaurant. There was additional evidence to support plaintiff's claim that he physically removed his friend from the restaurant. Ultimately the police were called and the plaintiff and his friend were apprehended, arrested and charged with attempted armed robbery. Plaintiff was in police custody for approximately 14 hours until his arraignment. Plaintiff ultimately went to a jury trial in the criminal matter and was found not guilty.

Subsequently, plaintiff brought suit against the franchise owner and the restaurant corporation for malicious prosecution, defamation and false imprisonment. The crux of plaintiff's claims was that the manager informed the police during their investigation and during the identification process that the plaintiff tried to rob the restaurant. Plaintiff alleged that these statements were false and caused the police to arrest and prosecute him. Plaintiff alleged that the manager's motive to provide false information to the police was due to the verbal altercation that occurred between plaintiff and the manager. Plaintiff claimed that the humiliation, embarrassment and the prospect of serving jail time caused him emotional distress.

During discovery, Boyle | Shaughnessy Law obtained summary judgment in favor of the restaurant corporation. The case proceeded to trial against the franchise owner and lasted three days.

One major issue with the trial was the fact that the manager of the restaurant relocated to his native country prior to the commencement of the lawsuit and was therefore unavailable for trial. Attorney Johnson defended the case on the basis that the employees of the restaurant acted appropriately when confronted with a threatening situation and that they provided true and accurate information to the investigating police officers who used their own judgment and

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experience to arrest and charge the plaintiff with attempted armed robbery.

A total of four witnesses testified in the matter. The plaintiff withdrew the false imprisonment count at the close of his case. The jury found that the franchise owner was not liable for malicious prosecution and defamation after 45 minutes of deliberation.

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