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Downtown guard wins legal duel

A 2008 incident leads to a trial touching on issues of class and privilege, ends in a cash award

By HELEN JUNG and THOMAS HALLMAN JR.
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A Multnomah County jury Friday ordered Nicholas Moyer Kassab and a friend to pay $362,500 to a downtown office building caretaker who confronted the men after Kassab – the grandson of developer Tom Moyer – allegedly urinated in the building's entryway.

The verdict followed a four-day trial that touched on issues of class and privilege.

"The only place that my client could find a neutral battlefield for his struggle against two rich and powerful men was in an American courtroom in front of a jury," said Greg Kafoury, the caretaker's attorney. "This is the highest form of justice."

Richard Kuhn, an attorney for Kassab, said he believes the judge erred in his instructions and explanation of law to jurors. He said he and his client will consider whether to appeal the case.

The suit, filed by Konstantin Naydenov against Kassab and his friend, Anthony Colnan Peressini, had sought nearly $1 million in damages from the two men, claiming false arrest, malicious prosecution, assault and intimidation. The jury rejected Naydenov's arguments on the latter two claims.

Kassab, 29, is the son of Elie Kassab, who opened Kassab Bros. Jewelry in 1975. His grandfather, theater-chain magnate Moyer, developed the Fox Tower and other buildings in and around Portland. He founded TMT Development, which is now run by Kassab's older sister, Vanessa Sturgeon.

Peressini, 28, is an associate director for Trademark Capital Services Northwest, which provides insurance and estate planning for wealthy clients.

The complaint stems from a December 2008 argument that led to the arrest of Naydenov after he pulled a gun on the two men.

But Naydenov, 49, said he had done so only after Kassab and Peressini threatened him with an open champagne bottle and taunted him when he confronted them about Kassab's alleged urination.

According to Naydenov, Kassab boasted that he and his family owned that building and others downtown and that he could urinate wherever he wanted. The building at Southwest 11th Avenue and Southwest Yamhill Street isn't one of the properties in Kassab's family's portfolio.

When police arrived on the scene, Kafoury said the two men lied about what happened, hid the champagne bottle in a snowbank and then took the MAX to go to the Trail Blazers basketball game that night.

Meanwhile, Naydenov was arrested and had to hire a lawyer for a criminal trial, where a judge cleared him of the charges last year, Kafoury said.

"My client had to spend nearly two-thirds of his annual salary for an attorney to defend him," Kafoury said. "He had to make payments for more than two years and just got it paid off."

But attorneys for the defendants argued that Naydenov – who has pulled out his gun in three previous instances when he felt his personal safety was at risk – was the aggressor, choosing to escalate the encounter when he could have just walked inside his building.

Kassab also denied he urinated. Rather, he said in testimony this week, he and Peressini were on their way to the MAX from the Urban Farmer restaurant, where they ate and drank during happy hour. Kassab was only stopping in the entryway of the building to check a voicemail that had been left hours earlier, he testified.

He also denied Naydenov's assertion that he claimed to own any buildings or that he taunted the man. He said he mentioned his family's pedigree only to a police officer to explain that Kassab felt a connection to downtown and wouldn't go around urinating on buildings, he testified. He also noted that if he needed to use a restroom, he could have gone into the Fox Tower to use the facilities there.

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Peressini conceded in testimony that he hid the champagne bottle and never told police about it. But he maintained that it was never opened and that he never used it as a weapon. He said that the two men planned to drink the champagne on the train on the way to the Trail Blazers game.

During the trial, Kafoury presented police reports, depositions, the 9-1-1 call from that evening and testimony from Naydenov's criminal trial in telling jurors that the two men have changed their stories over time.

For example, Peressini had told police that Kassab was arguing on the phone with his then-fiancee, not checking voicemail. Kassab had initially said he was answering a call.

Emails from January 2009 also showed the interest that some of Portland's most prominent names played in Naydenov's criminal case.

Kassab's sister, who also is a Portland Business Alliance board member, sent an email noting her brother's desire to press charges. The message went to Norm Sharp, a former Portland police officer who is the director of the alliance's "Downtown Clean and Safe" program.

Sturgeon copied the email to former Multnomah County Deputy District Attorney Mike Kuykendall, who is a friend of Portland Police Chief Mike Reese.

Another email sent by Sharp to Sturgeon and Kuykendall was copied to Laurie Abraham, a prosecutor with the Multnomah County District Attorney's Office. She in turn sent an email to the prosecutor in charge of the case, Amber Moser.

Moser testified this week that the email chain "revived" the criminal case against Naydenov.

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