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Fired Deputy Wins Verdict Against Jackson County Sheriff's Office

Federal Court Orders Internal Affairs Report Destroyed

By Mark McDougal

In March of 2009, **Sheriff Deputy Jacob Franklin** was on traffic duty on I-5 when he pursued a truck that had failed to change lanes when required to do so by law. Deputy Franklin turned on his sirens and pursued the truck, which did not pull over. Instead, the truck turned off onto an exit and eventually pulled to the side of the road. A large man got out of the truck. Franklin instructed the gentleman to get back into the truck. When the man refused, Deputy Franklin ordered the man to get back into his pickup truck at least five times. The suspect then loudly stated that he would not do anything that Franklin told him to do. Then, Franklin tried to get the man to put his hands on the back of his truck. The man walked towards the back of the truck, angrily pointing his finger at Franklin, then refused to turn around and face his truck, and instead started to advance towards Franklin. After his commands were repeatedly rebuffed, Franklin used force to take the man down, and place him under arrest.

The man that Deputy Franklin arrested was a retired deputy sheriff from **Jackson County**. The first deputy on the scene to assist Franklin responded with bewilderment when she saw that it was a retired deputy sheriff who had been arrested. She and other long-time members of the sheriff's department immediately assured the retired deputy sheriff that everything would be okay. Thereafter, Deputy Franklin was pressured into releasing the retired deputy sheriff and dropping all charges against him.

The incident was caught on Deputy Franklin's patrol car camera.

After the incident, the Jackson County Sheriff's Department retaliated against Franklin, claiming that he had used excessive force, and began an Internal Affairs investigation of Franklin. The IA investigation threw the kitchen sink at Franklin, dredging up minor events, and even went so far as to allege violations against Franklin for things his supervisors had instructed him to do.

Back row from left to right: Linda Galas, Mark McDougal, David Hess; front row: Jason Kafoury, Jacob Franklin, Charley Merten, Melody Franklin, and Greg Kafoury.

> *Jacob Franklin showed immense courage under the most difficult of circumstances in taking on the most powerful politician in Jackson County, Sheriff Winters"* — Charley Merten

Jacob Franklin was never given an opportunity to challenge the content of the Internal Affairs report. The report was filed with a state agency that governs law enforcement personnel. Franklin was fired, and the existence of the report prevented Franklin from getting another job, as all law enforcement agencies check the state database for such reports prior to hiring someone.

Jacob Franklin sued Jackson County, and he was awarded $209,000 in damages, and the judge ordered an additional $300,000 in attorney fees and costs. Additionally, based in part on the jury's findings, the federal judge who presided over the case ordered that the Internal Affairs report on Franklin be destroyed. **Charley Merten** was lead counsel, assisted by **Mark McDougal** at trial.

The Franklin case demonstrates the power of the jury system. The jury vindicated Jacob Franklin's rights, disbelieving the testimony of numerous law enforcement officers who backed up the Jackson County Sheriff's Office.

Welcome to Our Newsletter

- We hope to provide practical and useful information.
- We want to share what we are doing with you.
- Let us know if there is something you want us to write about.
- We appreciate the business our clients refer.

KAFOURY & MCDOUGAL, LAWYERS 320 SW Stark Street, Suite #202, Portland, Oregon 97204
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Our focus is:

Wrongful Death, Personal Injury, Medical Malpractice, Defective Products, Construction Injuries, Sexual Abuse, False Arrest, and Auto Accident cases.

We appreciate referrals. Please let your family, friends, and neighbors know that if they need a lawyer, they should call Kafoury & McDougal first!

"You'd Look Good in Handcuffs"

KAFOURY & MCDOUGAL HEADING TO TRIAL IN AMBULANCE SEX ABUSE CASE IN MISSOURI

In addition to eight sex abuse cases involving an **American Medical Response** ambulance attendant pending in Oregon, Kafoury & McDougal have similar AMR cases in California and Missouri. In Missouri, the attendant, **Mike Walker**, had been fired from his previous job for sexual abuse, and employees of AMR had repeatedly warned their superiors that Walker was sexually aggressive and inappropriate, long before our client was assaulted by him. There was a complaint by Walker's partner that the attendant had humped one lady's leg like a dog, and another female ambulance passenger complained to AMR that Walker had invited her to join with him and his wife in "S&M." When she refused, he told her, "That's too bad, you'd look good in handcuffs."

AMR claimed they lost our client's report. In Portland, AMR also said they "lost" the report of abuse of another one of our clients, also a sex abuse victim. In the Portland trial, we won $3.25 million.

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Internal Documents Show Hospital Knew of Sex Abuse

By Gregory Kafoury

Kafoury & McDougal represent seven of the 19 women who have accused anesthesiologist **Frederick Field, M.D.**, of crimes ranging from sexual abuse to rape. Five of the women were hospital employees who feared for their jobs if they reported what Field had done to them. Incredibly, nearly all the women report that Field abused them while another physician was operating on them, and that Field had sedated them to the point where they were unable to resist, but that they were aware of what was being done to them.

The CEO of **The Dalles hospital**, **Duane Francis**, has repeatedly claimed that the hospital administration first heard reports of sexual abuse by Field in May of 2011, and immediately notified the police.

Kafoury & McDougal, however, have forced the disclosure of internal hospital documents showing that in 2008 a patient complained that Field sexually abused her during surgery.

Records further show that a nurse complained in 2010 that Field approached her from behind and put his hands down her blouse and fondled her. The nurse reported that she and the other operating nurses had "agreed to make it a point not to leave anyone alone in Dr. Field's presence." In February, 2011, a 66-year-old woman charged that Field had abused her during surgery, and the details of her accusation were almost exactly the same as those of the woman who had reported to the hospital in 2008.

> *"At The Dalles hospital remember we see the same pattern that emerged in the Sandusky scandal at Penn State: High officials learned early about accusations of a sexual predator in their midst, and—fearful of scandal and liability—they deny and conceal, leaving the predator free to seek out new victims."*
> —Gregory Kafoury

Dr. Field has been indicted on Measure 11 felony charges involving 12 of the women.

In July, 2011, the police recorded a pretext call between Dr. Field and one of his victims.

continued, inside right panel

Joseph/Shutterstock.com

While female patients at The Dalles hospital were being operated on, anesthesiologist Fred Field sexually molested and abused them. Despite complaints to hospital officials, Field got away with his crimes for more than four years.

K&M's New Website and Blog

Recently, we launched our new website. Check it out at kafourymcdougal.com. Our site features dozens of TV stories, photos, and news articles from our more than two-decade career of fighting on behalf of injured and wronged citizens. Click on our "News Stories" section to read summaries our recent headline victories, watch video clips from TV coverage and deposition excerpts, and download printable versions of newspaper stories. We will continually put up fresh content, so check back often.

We also provide helpful resources, and have an up-to-date blog highlighting our view on recent legal decisions, current events, and legislative actions that affect your rights and legal claims.

We have also launched a K&M Facebook page and a Youtube channel showing an introductory video about our firm, along with headline victories and cases we've recently filed. Please go "like" us on our Facebook page and become a subscriber to our Youtube channel.

Keep up on what's happening at the firm!

Like us on Facebook

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Police Abuse: K&M Win Two More Trials

By Gregory Kafoury

Shei'meka Newmann

JURY AWARDS $82,000 TO WOMAN ARRESTED FOR ASKING A POLICEMAN FOR A BUSINESS CARD

A persistent pattern with the Portland Police is that people who question their authority often wind up hurt, in jail, or both. **Shei'meka Newmann**, recipient of the Mayor's Spirit of Portland Award for volunteer work with underprivileged children, and "an indispensable employee" at Wieden+Kennedy, was disturbed when she saw police take a young man from the MAX, throw him to the ground, and roughly cuff him. When she asked the police about what the man had done, she was ignored. Undaunted, she stayed at the Lloyd Center MAX station more than seven minutes on a cold February night, waiting for the police to take a moment to explain what was happening. When she then asked **Officer Jim Sandvik** for a business card, he refused, took her ID, and wrote her an exclusion from Tri-Met. When Ms. Newmann stepped towards the officer, explaining that she wanted to make note of the name on his uniform, he hit her in the chest with a "palm strike," a trained technique by which a strong officer can break a door.

Somehow keeping her feet, Ms. Newmann placed her hands behind her and announced that she was not resisting, so that the officer would have no possible reason to hurt her further. Nonetheless, Sandvik forcefully twisted her arm up behind her, and arrested her for interfering with an officer. Other charges were stacked on, but when her case came up for trial, Sandvik failed to appear. He claimed he had a headache. All charges were dismissed.

Kafoury & McDougal sued the City for false arrest, battery, and malicious prosecution, and the jury awarded $82,500.

POLICE BRUTALITY COSTS CITY $30,000

Jason Elgin and his friend, **Monica Roundtree**, students at PCC, were exhausted from mid-term exams, and in the time-honored tradition of late-night students, they fell asleep at their table at **Denny's**. The manager made no great effort to awaken them, and instead called the police.

Officer Kevin Tully arrived at the scene, and without much ado threw Elgin onto the ground and repeatedly zapped him with his tazer, then cuffed him and hauled him off to jail.

Tully charged Elgin with five misdemeanors. When the DA's office read the report and looked at the videotape from the scene, they dismissed all the charges.

When K & M sued the City, Officer Tully testified that Elgin was screaming profanities at him, and was violent and combative.

An array of customers and employees disputed virtually every scrap of Tully's testimony at the civil trial, denying that Elgin was in the least bit rude, vulgar, yelling, or resisting.

The jury awarded Elgin $30,000. You can see the TV coverage, news stories including **Steve Duin's** columns, and video from the Denny's yourself at KafouryMcDougal.com.

View entire Jason Elgin video at www.OregonLive.com. (Search: "PCC student wins")

No trial results can ever be guaranteed. Any results set forth here were dependent on the facts of that particular case and the results will differ from case to case.

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Caretaker Awarded $362,500 Against Rich Bullies

By Gregory Kafoury

During the Christmastime snow storm of 2008, **Kostadin Naydenov** saw a young man urinating in the alcove of **The Professional Building** on SW 11th and Yamhill. Naydenov, the caretaker of the building, confronted the man, **Nicholas Kassab**, and his companion, **Anthony Peressini**.

Kassab, who had taken the opportunity to relieve himself on the building while he and his pal were on their way to a Blazer game, replied in the most vulgar of terms that he could urinate anywhere he wanted, that he owned the building and other nearby buildings, and that his grandfather owned **The Fox Tower**. Naydenov asked how Kassab would like it if he did the same at the home of Kassab's mother. In response, Kassab and Peressini, also from a wealthy Portland family, threatened Naydenov with a half-drunk magnum of champagne. Naydenov then presented the pair with his .357 pistol, and suggested that they would be ill-advised to attack him.

> *"Two prima donnas, armed with an $8 bottle of champagne, collided with a Bulgarian-born building caretaker and his .357 magnum on a snowy night in downtown Portland."*
> — Steve Duin, Oregonian Columnist

Kassab and Peressini called the police, then yelled and laughed at Naydenov, and mocked his ancestry, all while telling him he was "going to jail."

From left to right: Greg Kafoury, client Kostadin Naydenov, Jason Kafoury and Charley Merten. The $362,500 verdict rocked the defendants, who had offered nothing in settlement.

Meanwhile, Peressini hid the heavy bottle in a snow bank, explaining later that he hid the bottle because the police were coming, and "because there was a gun on the scene, and I'm standing there with a champagne bottle. I mean, how would that look to you?"

Naydenov went to jail; the young members of Oregon's elite went to the Blazer game. After being bailed out in the middle of the night, Naydenov found the bottle, then cleaned Kassab's urine from the alcove.

But Kassab and Peressini had not had their fill of abusing and humiliating Naydenov. Kassab pressed the DA to bring charges, and his sister, **Vanessa Sturgeon**, manager of the **Moyer** empire, enlisted several of the most well-connected members of the Portland business community to urge that Naydenov be charged.

At his criminal trial, Naydenov was acquitted of all charges, and Kafoury & McDougal then filed suit against Kassab and Peressini. The jury awarded $362,500 to Naydenov.

When the Deputy DA was asked at the civil trial why Peressini had not been investigated for concealing evidence at a crime scene, she had no response.

See **Steve Duin's** online Oregonian stories and video clips of Peressini's depo testimony, at www.KafouryMcDougal.com/news. The story and video are not to be missed.

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Hospital Knew of Sex Abuse

continued front page story

During the call, Field acknowledged having sexually touched the woman in 2007, and suggested that she should keep it to herself because, "You were drunk and you came onto me." The woman replied, "But doctor, I wasn't drunk, I was sedated, and I was having an operation." On the recording, Field replied, "Well, drunk, sedated, it's all pretty much the same thing."

The scandal has shaken The Dalles. The hospital is the city's largest landowner and owns nearly all the local clinics. The hospital's board of directors are prominent and wealthy people. The Dalles is a "company town," and many residents are having grave doubts about the nature of the institution that, high on a hill, looms over them.

Our litigation may help answer deeply troubling questions. Why did the hospital administration ignore repeated sexual accusations from patients and staff about Dr. Field? Why was Field's last victim molested on July 24, 2011, when the administration claims that they realized what Field was doing in May? See online Oregonian stories at www.KafouryMcDougal.com/news.

Key Judicial Races: K & M Recommendations

Supreme Court: Richard Baldwin

Multnomah Co. trial judge, former Legal Aid attorney, strong, fair, sympathetic, highly experienced.

Court of Appeals: Judge Jim Egan

Lynn Co. trial judge, as a trial lawyer, represented people, not corporations, highly experienced.

Lourdes & Natalie

Lourdes Sanchez and Natalie McDougal now have their own office to work from as Kafoury & McDougal have added more space. **Lourdes Sanchez** is a Spanish-speaking attorney who works in conjunction with Kafoury & McDougal with a large number of her clients. Kafoury & McDougal are pleased to promote Lourdes Sanchez' practice, which extends state-wide, and covers all aspects of personal injury law, including workers' compensation claims.

Natalie McDougal's work overlaps with Lourdes Sanchez on those cases where we are jointly representing individuals who have been injured on a work site and who have what are known as Employer Liability Law claims. Natalie McDougal aggressively fights for the rights of injured people. Natalie McDougal's work has been gradually transitioning to handling briefs and legal memorandums for all aspects of the firm's practice.

The Dragon Says... Stand Up for the Jury System

Traditionally, Americans have been people who understood their rights and enforced them. Civil trials are much more than a means to resolve disputes, they are a great stage upon which we play out and renew our commitment to individual freedom, dignity and justice.

The jury is the most democratic of our institutions, and it is where ordinary people have the most power. That is why it has been targeted by powerful interests. In the mid-1980s, the largest insurance companies hired major P.R. firms in Washington D.C. and New York and told them to use all their powers to discredit the jury system. This effort is ongoing. As a result, you have all heard the tales that our courts are clogged, that many or most law suits are frivolous, that we have become a litigious society. In fact, out of the 1.5 million people in Multnomah County, there are only about 100 civil jury trials each year, and only perhaps half involve injuries. Clackamas County averages 12 civil jury trials a year. Insurance company propaganda, litigation costs, procedural hurdles, mediation and arbitration, have all conspired to further diminish the role and numbers of civil trials.

Our firm had 15 civil trials last year. You, too, should do your part to preserve our justice system by speaking up whenever you hear our jury system subjected to ignorant criticism.

No trial results can ever be guaranteed. Any results set forth here were dependent on the facts of that particular case and the results will differ from case to case.