

Cook County & Illinois

JURY VERDICT REPORTER

Publication: Cook County Jury Verdict Reporter Published: 9/5/2008
CIVIL RIGHTS--OAK BROOK RESIDENTS CLAIM HARASSMENT BY VILLAGE ATTORNEY
 (ZZ 47/3) *Frances V. Gaik, Casey Gaik v Joan E. Mullins* 05C-2335 Tried: May 5-9, 2008 (14)

Verdict: Not Guilty
 Judge: Rebecca R. Pallmeyer (USDC IL NE)
 Pltf Attys: Terrence P. Canade and Steven T. Whitmer of *Locke, Lord* for both pltfs Demand: \$2,000,000 +
 Asked: \$240,000 +
 Deft Atty: Martin A. Dolan of *Dolan Law Offices* Offer: none

Beginning in January 2005, the pltfs, residents of Oak Brook and founders of the Oak Brook Citizens for Better Government (OBCBG), alleged they were the targets of a barrage of anonymous emails designed to publicly discredit them. They claimed that the F-42 deft, who was an Oak Brook Village Prosecutor at the time, was linked to these emails, allegedly sent by Oak Brook police officer Sgt. Randall Mucha, and that the emails were part of a campaign against them which also included police surveillance and an investigation of Frances Gaik's educational and professional background, in retaliation for their speaking out about the Village President, operation of the Village police department, and the deft herself. The Village and Mucha were original co-defts in the suit which alleged that defts' actions deprived pltfs of their rights to freedom of speech and equal protection in violation of 42 U.S.C. Sec. 1983. It also claimed that M-62 pltf Casey Gaik was the subject of a malicious prosecution for misdemeanor battery stemming from an incident at a March 2005 Village Board meeting in which he allegedly touched or grabbed Ms. Mullins' shoulders; the case was nolle prossed on May 7, 2007. The pltfs maintained that defts' conduct forced them to move out of Oak Brook (\$180,000 moving expenses, \$60,000 legal fees to defend the misdemeanor charge) and they asked for an unspecified amount in punitive damages. In September 2006, a \$2,000,000 settlement was reached between the pltfs and Oak Brook's insurer IRMA, on behalf of the Village and Sgt. Mucha. The settlement did not include Mullins although she was, at the time, represented by the same law firm as her co-defts. She subsequently retained her own attorney and defended the case at her own expense, contending that pltfs' claims were frivolous, that she did not act under "color of state law," and that the pltfs failed to demonstrate that their rights to free speech and/or equal protection were violated or that there was any causal connection between anything she did and the pltfs' claimed loss of their constitutional rights. On the malicious prosecution claim, the defense maintained that a battery occurred; Mr. Gaik admitted touching the deft; the DuPage County State's Attorney's Office, not the deft, commenced prosecution of the charges; and the prosecuting attorney stated there was probable cause to charge Mr. Gaik, even while nolle prossing the case. The jury deliberated for less than two hours. Pltfs' post-trial motion for a new trial is pending. Also pending is a declaratory judgment action against the Village, IRMA, and the Gaiks brought by Ms. Mullins in Cook County, and a defamation suit she filed in DuPage County against the OBCBG.