

Gender bias suit with jury

Closing arguments made
over an alleged 'pattern'

By Ray Burton

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NEW HAVEN — A gender-discrimination suit filed by a former Naugatuck female police officer against the borough, its police chief and deputy chief was sent to the jury in U.S. District Court on Thursday.

Testimony filed by the officer, Caroline O'Bar, ended with closing arguments after eight and a half days. Merrie Hawley, the attorney representing O'Bar; Patty Swan, the attorney representing the borough, and Michael Farrell, the attorney representing Chief Dennis Clisham and Deputy Chief Thomas Hunt, addressed the jury of four women and three men.

Judge Ellen Bree Burns sent them to the jury room for lunch and deliberations about 2 p.m. At 4:30, the jurors sent a note requesting further information.

The jury must decide whether 50 or so incidents outlined by Hawley created such a hostile working environment that O'Bar had no choice but to resign. The jury must also decide whether Clisham and Hunt intentionally inflicted emotional distress.

Hawley spoke before and after the defense attorneys. She initially had asked the jury to "remember the pattern." She mentioned an evaluation that rated O'Bar's attendance as unsatisfactory because she used 52 sick days as maternity leave. Also, the mayor thought the termination of the bike patrol the day after the police commission heard O'Bar's grievance over it was retaliation.

Swan attacked pieces of O'Bar's case. She called the evaluation "nothing but a distraction," and said O'Bar cannot point to a single time it was used against her.

Please turn to 2B, GENDER

GENDER: Jury returned to courtroom to ask questions

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Swan used a large chart as a visual aid, concentrating on a timeline of events and the explanations of how the department did business. She attempted to show that each work assignment that O'Bar alleged was discrimination or retaliation had nothing to do with gender, but were routine business decisions the department has to make.

Swan said O'Bar received numerous special assignments once the department knew she was interested.

Farrell, responsible for defending Clisham and Hunt from a charge they intentionally inflicted emotional distress on O'Bar, described the case as a conspiracy theory.

"Way back in the '60s they took an oath, to protect and serve," he said. "I ask you to consider, with all the years

of experience, why would they be so petty to do what the plaintiff says they did?"

Hawley focused on credibility of conflicting testimony, specifically mentioning Capt. James Fortin and Clisham.

"Did you believe them on the stand?" she asked of all the defense witnesses.

At 4:30, the jury sent out a note seeking more information. After a 20-minute conference with the attorneys in her chamber, Burns returned to the courtroom, brought the jury in and answered three of the six questions on the note.

The jury wanted to know:

- How detectives are assigned;
- When O'Bar filed her complaint with the state Commission of Human Rights and Opportunities;
- Whether there was a requirement

that the department notify each union member when policies are changed;

■ When the department knew there would be an opening for a detective that was filed while O'Bar was on maternity leave.

Burns answered that detectives are sent by special assignment of the chief; gave the date of the CHRO complaint, January 2000, and advised jurors to look at the union contract for information on any requirement to notify each union member about policy changes. She did not answer the other questions, saying they were not in evidence presented.

A second note from the jury asked for clarification on preponderance, extreme and outrageous, referring to legal standards outlined in the jury charge. After discussions with attorneys, Burns said she would reread the relevant portions of the jury charge when court reconvenes at 9 this morning.

Since leaving the Naugatuck department, O'Bar worked as a Middlebury officer for several months before taking time off from her career to stay at home with her children. She returned to police work in December, taking a job in Beacon Falls.