

## City defames applicant for top police job

### \$1.5 million verdict

The plaintiff applied to become Fitchburg's chief of police in late 2013. At that time, he was resident agent-in-charge of the Rochester, New York, field office of the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives. Before joining the ATF, he had been a Massachusetts police officer for 15 years, rising to the rank of lieutenant.

In March 2014, the Fitchburg mayor announced she had selected the plaintiff for the police chief position. About a week later, the mayor received an anonymous letter disparaging the plaintiff, including a false implication that he failed to disclose required information about criminal charges of which he was acquitted in 1989. Shortly thereafter, the mayor



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withdrew the nomination.

In a statement to the press, the mayor said that the plaintiff was "not forthcoming ... about a court case on alleged assault and battery and other charges when he was 21."

The jury found that the mayor's statement about the criminal charge was false



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and defamatory because the plaintiff was not required to disclose a criminal acquittal under Massachusetts law, which bars an employer from asking or deciding not to hire someone for failing to disclose such an acquittal.

The jury awarded the plaintiff \$125,000 for damage to his reputation and

\$625,000 for economic losses caused by the defamatory statement. The jury also awarded \$750,000 in punitive damages after finding the city's discriminatory conduct was "outrageous and egregious" and in violation of Chapter 151B.

**Action:** Negligence and tort

**Injuries alleged:** Bias, defamation

**Case name:** Heagney v. Wong, et al.

**Court/case no.:** U.S. District Court, No. 4:15-cv-40024-TSH

**Jury and/or judge:** Jury/Judge Timothy S. Hillman

**Amount:** \$1.5 million

**Date:** March 6, 2017

**Attorneys:** Nicholas B. Carter and Joseph M. Cacace, of Todd & Weld, Boston (for the plaintiff)



**Todd & Weld** LLP