

Jury delivers mixed verdict in Pullano ? Hinder trial

By Brock Weir

A ?punch? did take place, but it didn't cause the injury former council candidate Anthony Pullano alleged in his civil assault lawsuit against Magna's Steve Hinder, a jury ruled last week.

The six-member jury of four women and two men delivered their decision on Friday afternoon at the end of a two-week trial following nearly two days of deliberations.

They found that Mr. Hinder did indeed ?punch? Mr. Pullano at a March 2014 political meeting, but found it ?caused no injury,? ultimately awarding no damages to the plaintiff.

Conversely, Mr. Hinder was awarded \$50,000 in damages relating to his countersuit of defamation against Mr. Pullano, citing a number of tweets posted over the last two years that characterised him as a ?bully? and a ?thug.?

"There was a principle established here. It was never about money, per se," said William Reid, who represented Mr. Pullano in the case. "Obviously Mr. Pullano reasonably believed the punch by Mr. Hinder?caused the infection of his ICD site which happened a couple of months later. We had an expert witness testify for that. As it turns out, obviously the jury didn't accept that, which is their right. But, at the end of the day, he had always insisted he had been punched and I think the jury obviously found that. That is validating."

Magna, on the other hand, had a different assessment.

"We feel the result ended in Mr. Hinder's favour and confirms his good character and reputation in the community," said Magna spokesperson Tracy Fuerst.

The matter in question has been working its way through the courts since February of 2015. In his lawsuit against Mr. Hinder, Mr. Pullano claimed on the evening of March 20, 2014, he was confronted by Mr. Hinder at The Mansion, just before Newmarket Councillor Jane Twinney was acclaimed the Progressive Conservative party's candidate for Newmarket-Aurora ahead of that year's Provincial election..

He alleged Mr. Hinder approached him at the event and struck him on the chest with his fist where his Implantable Cardioverter Defibrillator (ICD) is located. As a result, Mr. Pullano said he suffered injuries and damages, including a hospital stint following an infection he claimed was caused by the punch.

Mr. Hinder, on the other hand, claimed that while he was indeed at the meeting, he merely approached Mr. Pullano, shook his hand, and, knowing Mr. Pullano attended the previous evening's acclamation Chris Ballard, Ms. Twinney's Liberal counterpart, asked him who he was supporting that evening.

The civil trial began late last month after aggravated assault charges against Mr. Hinder were withdrawn by the criminal court after the Crown concluded there were no grounds.

Mr. Pullano and Mr. Hinder both took the stands in their defence over the ensuing two weeks.

Those testifying on Mr. Pullano's behalf included former Newmarket council candidate Wanda Cena and Fred Rankel, both of whom were in attendance at the meeting in question, as well as Brian Morris, who appeared as a character witness.

Appearing on Mr. Hinder's behalf were then-Councillor John Abel, former council candidate Arshad Desai, both of whom were at the 2014 meeting, as well as Magna's Marc Neeb.

Both sides called doctors to give their medical perspectives.

"You will have to assess the evidence of each Mr. Pullano and Mr. Hinder in determining issues of what His Honour describes a credibility and reliability,?" said Deborah Berlach, lawyer for Magna and Mr. Hinder in closing arguments last week. "You had the opportunity to see [Mr. Pullano] didn't answer questions (on the stand) directly, he chose very often to go off on speeches to you about the state of affairs in Aurora as a justification for either not answering or providing a different answer for the tweets or position. Given that we take the position that there was no punch and there is no evidence to support there was a punch, it follows that there was no injury that could lead to the infection of Mr. Pullano's ICD pocket.?"

Regarding Mr. Pullano's tweets, Ms. Berlach said there ?can be no doubt? they were intended to lower Mr. Hinder's reputation and role in the community, pointing out that these tweets were not ?private interactions? with people but very public.

Mr. Reid, on the other hand, told the jury that Webster's Dictionary defines ?bullying? as ?treating someone in a cruel, insulting, threatening or aggressive fashion? and that definition fit the bill in this case.

"If it happened, Mr. Hinder is a bully,?" said Mr. Reid. "If Mr. Hinder is a bully, the defamation action, in my submission, fails.?" The ?punch?, he said, took place in a matter of seconds and the entire two-week trial hinged on the jury's perspective on this brief

moment of time.

'When (Mr. Hinder] said, 'And who are you supporting tonight?', that alone was bullying,' said Mr. Reid. 'That alone was meant to ostracize Mr. Pullano and it was accentuated by a punch. It was a jocular punch, which is meant to accentuate the intimidation, insult and demean.'

Touching upon the witnesses Mr. Pullano called in this case, Mr. Reid said the minor inconsistencies in their recollections, or parts they didn't remember, strengthened the case, arguing that was mere 'human nature,' while suggesting Mr. Hinder's witnesses had been 'rehearsed.'

'The punch happened,' he continued. 'It wasn't the worst punch in the world. It wasn't meant to cause all these consequences. In my submission, there is pain, suffering, disability, inconvenience, loss of enjoyment of life, emotional and psychological harm.'

Considering the 'embarrassment, humiliation, anger' experienced by Mr. Pullano, Mr. Reid conceded that his client, later 'lost it' on social media, but the ultimate question, he argued, was whether or not Mr. Pullano's tweets were true.

'If it is true, it is not defamation,' Mr. Reid told the jury. 'If Mr. Hinder punched Mr. Pullano under those circumstances, he's a bully and this is your chance to send a message. The issue here is, did a punch happen? Did the words happen? Was it bullying? If it was, in my view, 98 per cent of these allegations you can decide what's left.'

The jury's question on what constituted a punch, an issue posed to Justice McCarthy during deliberations, went unclarified.

Submissions for cost will be submitted to the court on January 31.