



2010 WL 1347238 (N.Y.Sup.)
For docket see [0003993/2007](#)

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Supreme Court, Eleventh Judicial District, Queens County, New York.

Kim Lawton v. City of New York, The New York City Police Department, Police Officer, John Frink and
Police Officer Jane Mozert

No. 3993/07

DATE OF VERDICT/SETTLEMENT: January 08, 2010

TOPIC: INTENTIONAL TORTS - FALSE ARREST - GOVERNMENT - POLICE - GOVERNMENT -
MUNICIPALITIES

Black Probation Officer Alleged Discrimination in Arrest

SUMMARY:

RESULT: Settlement

Award Total: \$150,000

After the selection of a jury, but prior to the scheduled start of the trial, the parties negotiated a settlement. The city agreed to pay \$150,000.

EXPERT WITNESSES:

ATTORNEYS:

Plaintiff: Adam M. Orlow; The Orlow Firm; Flushing, NY (**Kim Lawton**)

Defendant: Brandy M. Monge; Assistant Corporation Counsel City of New York; Jamaica, NY (City of New York, City of New York, City of New York, Jane Mozert, Jane Mozert, Jane Mozert, John Frink, John Frink, John Frink, New York City Police Department, New York City Police Department, New York City Police Department)

JUDGE: Allan B. Weiss

RANGE AMOUNT: \$100,000-199,999

STATE: New York

COUNTY: Queens

INJURIES: Lawton was arrested, and the charges remained pending for some 24 months, until she was acquitted.

Facts:

On Nov. 25, 2005, plaintiff **Kim Lawton**, 41, a probation officer, was visited by two officers of the New York City Police Department. The officers, John Frink and Jane Mozert, were accompanied by a man, John Black, who had lived in the basement of Lawton's residence, which was located at 145-42 159th Street, in the Jamaica section of Queens. Black and the officers wanted to gain access to the basement, but Lawton was not receptive to the request. An argument ensued, and Lawton was arrested. She was charged with disorderly conduct and resisting arrest.

Lawton sued Frink, Mozert and their employers, the city of New York and the New York City Police Department. Lawton alleged that she was falsely arrested.

Lawton claimed that Black was not a formal tenant but merely a family friend who had been allowed to temporarily occupy the premises without a lease. She contended that she expressed an unwillingness to allow the officers and Black to access the basement, but that Frink instructed Black to kick open the basement door, ostensibly so Black could produce belongings that proved that he was an ongoing resident of the basement apartment. Black ultimately entered the basement, and he produced a bill that was addressed to him at Lawton's address. Lawton was ticketed for maintaining an illegal basement apartment.

Lawton claimed that she told the officers that she would not have been subjected to such treatment if she were not "a black female officer," and she contended that Frink responded by declaring that she would be arrested for "crying racism." Lawton claimed that she was pushed to the ground, handcuffed, shackled and transported to a police precinct's headquarters.

Defense counsel contended that Lawton fabricated or misrepresented much of the incident. Frink claimed that he never instructed Black to kick open the basement's door, and he and Mozert agreed that Lawton was arrested because she was acting in a disorderly manner that suggested that an altercation could have ensued if she and Black were left alone. Mozert claimed that Lawton had been cursing throughout the encounter, though Frink claimed that he could not recall Lawton using profanity.

The officers also claimed that they used only the force necessary to control Lawton.

Lawton's arrest led to a suspension from her job, though she was allowed to return some four weeks later, pending the outcome of her trial. Lawton claimed that she endured emotional distress and the burden of having to make numerous trips to court proceedings. Although Lawton was eventually paid for her time on suspension, she contended that her legal expenses and the interruption of her salary caused her to miss mortgage payments and credit card payments, and she claimed that she eventually had to refinance her mortgage at a higher rate.

Lawton sought recovery of some \$11,000 for the cost of defending the criminal charges. She also sought recovery of damages for her past and future pain and suffering.

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Queens Supreme

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