

CLOSED

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:95-cv-10765-GAO**

Swain v. Roe, et al  
Assigned to: Judge George A. O'Toole, Jr  
Demand: \$500,000  
Case in other court: 96-02035  
Cause: 28:1983 Civil Rights

Date Filed: 04/13/1995  
Date Terminated: 07/05/1996  
Jury Demand: Both  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**Kelly J. Swain**

represented by **Michael E. Tyler**  
430 Boston Street  
Topsfield, MA 01983  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Mary Roe**  
*TERMINATED: 07/18/1995*

**Defendant**

**Edward Hayes**  
*TERMINATED: 09/19/1997*

represented by **Douglas I. Louison**  
Merrick, Louison & Costello  
67 Batterymarch Street  
Third floor  
Boston, MA 02110  
617-439-0305  
Fax: 617-439-0325  
Email: dlouison@merricklc.com  
*TERMINATED: 09/19/1997*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Regina M. Ryan**  
Merrick, Louison & Costello  
67 Batterymarch Street  
Boston, MA 02110  
617-439-0305  
Fax: 617-439-0325  
Email: rryan@merricklc.com  
*TERMINATED: 09/19/1997*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****North Reading, Town of**

represented by **Douglas I. Louison**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Regina M. Ryan**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****Laura Spinney***TERMINATED: 09/19/1997*

represented by **Regina M. Ryan**  
 (See above for address)  
*TERMINATED: 09/19/1997*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
04/13/1995	1	Complaint filed. Case assigned to Judge: Zobel. Receipt #: 267843 Amount:\$ 120.00. (fmr) (Entered: 04/13/1995)
04/13/1995		Summons issued for Mary Roe, Edward Hayes, North Reading (fmr) (Entered: 04/13/1995)
04/26/1995	2	Return of service executed as to Edward Hayes with service on 4/21/95 filed. Answer due on 5/11/95 for Edward Hayes (lau) (Entered: 04/27/1995)
04/26/1995	3	Return of service executed as to North Reading with service on 4/21/95 filed. Answer due on 5/11/95 for North Reading (lau) (Entered: 04/27/1995)
05/08/1995	4	Answer by Edward Hayes, North Reading to complaint; jury demand, filed. (lau) (Entered: 05/08/1995)
05/08/1995	5	Judge Rya W. Zobel . Notice of Hearing/conference: set scheduling conference for 2:00 7/20/95 . Entered cc/cl (lau) (Entered: 05/08/1995)
06/27/1995	6	Return of service executed as to North Reading with service on 6/15/95 filed. Answer due on 7/5/95 for North Reading (cmg) (Entered: 06/30/1995)
07/11/1995		Case reassigned from Judge Zobel to Judge George A. O'Toole Jr. upon appointment to the bench. Notice sent to counsel. (cmg) (Entered: 07/14/1995)
07/13/1995	7	Motion by Kelly J. Swain to amend [1-1] complaint , filed. (lau) (Entered: 07/14/1995)
07/14/1995	8	Joint statement by Kelly J. Swain, Mary Roe, Edward Hayes, North Reading , re: Local Rule 16.1, filed. (lau) (Entered: 07/17/1995)

07/17/1995		Judge George A. O'Toole Jr. . Endorsed Order entered granting [7-1] motion to amend [1-1] complaint. Entered cc/cl (lau) (Entered: 07/18/1995)
07/17/1995	9	Amended complaint by Kelly J. Swain filed. (Answer due 7/27/95 for North Reading, for Edward Hayes, for Mary Roe ) . Amended complaint amends [1-1] complaint ; adding Laura Spinney . (lau) (Entered: 07/18/1995)
07/20/1995		Scheduling conference held . (lau) (Entered: 07/26/1995)
07/20/1995	12	Judge George A. O'Toole Jr. . Clerk's Notes: re: scheduling conference, set discovery due for 12/31/95 , set motion filing deadline for 1/31/96 , set Jury trial for 9:00 4/29/96 , set pretrial conference for 2:00 4/18/96 (lau) (Entered: 07/26/1995)
07/24/1995	10	Notice of appearance of attorney for Edward Hayes, North Reading, Laura Spinney by Regina M. Gilgun & Douglas I. Louison, filed. (lau) (Entered: 07/24/1995)
07/24/1995	11	Certificate of Consultation re: establishing a budget , filed. (lau) (Entered: 07/24/1995)
07/25/1995	13	Judge George A. O'Toole Jr. . Scheduling Order entered See Clerk Note #12. Entered (lau) (Entered: 07/26/1995)
07/28/1995	14	Amended Answer to Complaint by Edward Hayes, North Reading, Laura Spinney , filed. Answer amends [4-1] answer .; jury demand (lau) (Entered: 07/31/1995)
07/31/1995	15	Certificate of Consultation re: establishing a budget , filed. (lau) (Entered: 07/31/1995)
09/18/1995	16	Assented to Motion by Edward Hayes, North Reading, Laura Spinney to take the deposition of incarcerated person, plaintiff Christopher Milbury , filed. (lau) (Entered: 09/18/1995)
09/20/1995		Judge George A. O'Toole Jr. . Endorsed Order entered granting [16-1] motion to take the deposition of incarcerated person, plaintiff Christopher Milbury. Entered cc/cl (lau) (Entered: 09/21/1995)
11/17/1995	17	Motion by Edward Hayes, North Reading, Laura Spinney for protective order quashing the deposition of the Town Manager and the Chairman of The Board of Selectmen , filed. (lau) (Entered: 11/17/1995)
11/17/1995	18	Memorandum by Edward Hayes, North Reading, Laura Spinney in support of [17-1] motion for protective order quashing the deposition of the Town Manager and the Chairman of The Board of Selectmen , filed. (lau) (Entered: 11/17/1995)
11/17/1995	19	Notice by Kelly J. Swain to take deposition of Town Manager of the Town of North Reading, filed. (lau) (Entered: 11/17/1995)
11/17/1995	20	Notice by Kelly J. Swain to take deposition of Chairman of the Board of Selectman of the Town of North Reading, filed. (lau) (Entered: 11/17/1995)
11/17/1995	21	Certificate of Consultation re: [17-1] motion for protective order quashing the deposition of the Town Manager and the Chairman of The Board of Selectmen , filed. (lau) (Entered: 11/17/1995)

12/15/1995	22	Motion by Edward Hayes, North Reading, Laura Spinney to compel production of Psychiatric Records , filed. (lau) (Entered: 12/19/1995)
12/15/1995	23	Memorandum by Edward Hayes, North Reading, Laura Spinney in support of [22-1] motion to compel production of Psychiatric Records , filed. (lau) (Entered: 12/19/1995)
12/21/1995		Judge George A. O'Toole Jr. . Endorsed Order entered granting [17-1] motion for protective order quashing the deposition of the Town Manager and the Chairman of The Board of Selectmen. There being no opposition. Entered cc/cl (lau) (Entered: 01/03/1996)
12/27/1995	24	Memorandum by Kelly J. Swain in opposition to [22-1] motion to compel production of Psychiatric Records , filed. (lau) (Entered: 12/27/1995)
12/27/1995	25	Affidavit of Kelly J. Swain of Michael E. Tyler , re: [24-1] opposition memorandum , filed. (lau) (Entered: 12/27/1995)
01/05/1996	26	Letter by Kelly J. Swain by Michael E. Tyler dated: 1/2/96 re: Plaintiff's Response to Defendant, Town of North Reading's Requests for Admissions (Atty. requests it on file) filed. (lau) (Entered: 01/09/1996)
01/16/1996		Judge George A. O'Toole Jr. . Endorsed Order entered granting [22-1] motion to compel production of Psychiatric Records as to records of treatment from May 18, 1993 to the present. Entered cc/cl (lau) (Entered: 01/17/1996)
03/11/1996	27	Judge George A. O'Toole Jr. . Order for pretrial conference entered, set pretrial conference for 2:00 4/18/96 . Entered cc/cl (lau) (Entered: 03/11/1996)
04/03/1996	28	Assented to Motion by Edward Hayes, North Reading, Laura Spinney to extend time to 4/17/96 to file motion for summary judgment , filed. (lau) (Entered: 04/04/1996)
04/03/1996	29	Certificate of Consultation re: [28-1] motion to extend time to 4/17/96 to file motion for summary judgment , filed. (lau) (Entered: 04/04/1996)
04/09/1996		Judge George A. O'Toole Jr. . Endorsed Order entered granting [28-1] motion to extend time to 4/17/96 to file motion for summary judgment. Entered cc/cl (lau) (Entered: 04/10/1996)
04/12/1996	30	Pretrial memorandum by Kelly J. Swain, Edward Hayes, North Reading, Laura Spinney , filed. (lau) (Entered: 04/16/1996)
04/17/1996	31	Motion by Edward Hayes, North Reading, Laura Spinney for summary judgment , filed. (lau) (Entered: 04/18/1996)
04/17/1996	32	Memorandum by Edward Hayes, North Reading, Laura Spinney in support of [31-1] motion for summary judgment , filed. (lau) (Entered: 04/18/1996)
04/17/1996	33	Certificate of Consultation re: [31-1] motion for summary judgment , filed. (lau) (Entered: 04/18/1996)
04/18/1996		Pre-trial conference held . (lau) (Entered: 04/24/1996)
04/18/1996	38	Judge George A. O'Toole Jr. . Clerk's Notes: re: pretrial conference, reset Jury trial for 9:00 5/20/96 , set pretrial conference for 2:30 5/15/96 , Response to motion and defendant's reply by 5/3/96 [31-1] motion for summary judgment

		(lau) (Entered: 04/24/1996)
04/23/1996	34	Motion by Edward Hayes, North Reading, Laura Spinney for an Order granting access to criminal offender record information concerning the plaintiff Kelli Swain , filed. (lau) (Entered: 04/24/1996)
04/23/1996	35	Affidavit of Edward Hayes, North Reading, Laura Spinney of Douglas I. Louison , re: [34-1] motion for an Order granting access to criminal offender record information concerning the plaintiff Kelli Swain , filed. (lau) (Entered: 04/24/1996)
04/23/1996	36	Motion by Edward Hayes, North Reading, Laura Spinney for an Order granting access to criminal offender record information concerning the witness, Christopher Milbury , filed. (lau) (Entered: 04/24/1996)
04/23/1996	37	Affidavit of Edward Hayes, North Reading, Laura Spinney of Douglas I. Louison , re: [36-1] motion for an Order granting access to criminal offender record information concerning the witness, Christopher Milbury , filed. (lau) (Entered: 04/24/1996)
05/03/1996	39	Memorandum by Kelly J. Swain in opposition to [31-1] motion for summary judgment , filed. (lau) (Entered: 05/06/1996)
05/03/1996	40	Reply by Kelly J. Swain to response to [31-1] motion for summary judgment , filed. (lau) (Entered: 05/06/1996)
05/16/1996		Pre-trial conference held . (lau) (Entered: 05/17/1996)
05/16/1996	41	Judge George A. O'Toole Jr. . Clerk's Notes: re: pretrial conference; summary judgment motion pending; reset Jury trial for 9:00 7/8/96 (lau) (Entered: 05/17/1996)
05/16/1996	42	Judge George A. O'Toole Jr. . Order entered granting [36-1] motion for an Order granting access to criminal offender record information concerning the witness, Christopher Milbury. Entered cc/cl (lau) (Entered: 05/17/1996)
05/16/1996	43	Judge George A. O'Toole Jr. . Order entered granting [34-1] motion for an Order granting access to criminal offender record information concerning the plaintiff Kelli Swain. Entered cc/cl (lau) (Entered: 05/17/1996)
07/05/1996	44	Judge George A. O'Toole Jr. . Memorandum and Order entered. granting [31-1] defendant motion for summary judgement. cc/cl (fmr) (Entered: 07/05/1996)
07/05/1996	45	Judge George A. O'Toole Jr. . Judgment entered for Edward Hayes, North Reading, Laura Spinney . , and (fmr) (Entered: 07/05/1996)
07/05/1996		Case closed. (fmr) (Entered: 07/05/1996)
08/07/1996	46	Ex Parte Motion by Kelly J. Swain to permit late filing of Notice of Appeal , filed. (lau) (Entered: 08/07/1996)
08/09/1996		Judge George A. O'Toole Jr. . Endorsed Order entered granting [46-1] motion to permit late filing of Notice of Appeal. Entered cc/cl (lau) (Entered: 08/09/1996)
08/20/1996	47	Notice of appeal by Kelly J. Swain filed. Appeal record due on 9/19/96 (fmr) (Entered: 08/28/1996)

08/29/1996		Notice of Docketing Record on Appeal from USCA re: [47-1] appeal , received. USCA NUMBER: 96-2035 (fmr) (Entered: 10/02/1996)
09/05/1996		Appellant's statement of issues on appeal filed by the plaintiff, Kelly Swain: (fmr) (Entered: 10/09/1996)
10/09/1996		USCA appeal fees received Fee Status: pd Fee Amount: \$ 105.00 Receipt #: 119033 (fmr) (Entered: 10/09/1996)
11/12/1996	48	Notice of change of address filed by Regina M. Gilgun, Douglas I. Louison by Edward Hayes, North Reading, Laura Spinney . (lau) (Entered: 11/13/1996)
06/25/1997	49	Opinion of the Court of Appeals re: [47-1] appeal , entered This could indeed constitute "intimidation" or "coercion" within the meaning of the statute. The judgment of the court below is affirmed with respect to the Town of North Reading, and reversed with respect to the individual defendants.. (fmr) (Entered: 06/27/1997)
07/02/1997	50	Judge George A. O'Toole Jr. . Order entered, set Jury trial for 9:00 9/8/97 , set pretrial conference for 2:30 9/4/97 . Entered cc/cl (lau) (Entered: 07/02/1997)
07/17/1997	51	Mandate of US Court of Appeals re: [47-1] appeal reversing Upon consideration whereof, it is now here ordered,adjudged and decreed as follows: The district court's judgment with respect to the Town of North Reading is affirmed, but with respect to the individual defendants,it is reversed. . (fmr) (Entered: 07/18/1997)
07/17/1997		Record on appeal returned from U.S. Court of Appeals, re: . (fmr) (Entered: 07/18/1997)
08/04/1997	52	Judge George A. O'Toole Jr. . Order entered, set pretrial conference for 2:30 9/4/97 . Entered cc/cl (lau) (Entered: 08/04/1997)
08/27/1997	53	Pretrial memorandum by Kelly J. Swain, Edward Hayes, North Reading, Laura Spinney , filed. (lau) (Entered: 08/27/1997)
09/04/1997		Pre-trial conference held . (lau) (Entered: 09/05/1997)
09/04/1997	54	Judge George A. O'Toole Jr. . Clerk's Notes: re: pretrial conference; Defendant's file motions in limine; motion in limine re; financial losses-there are none; motion exclude criminal complaint-parties will resolve possibly via stipulation, the court would also give an instruction. Motion exclude evidence of 1985 rape, the court will allow the earlier records relating to the rape. Motion exclude expert testimony-plaintiff agrees not to ask opinion type questions. Oral motion of defendant to limit the scope of disciplinary issues to the Chief of Police-plaintiff will not raise it. (lau) (Entered: 09/05/1997)
09/04/1997	55	Motion by Edward Hayes, North Reading, Laura Spinney in limine to exclude expert testimony , filed. (lau) (Entered: 09/05/1997)
09/04/1997	56	Motion by Edward Hayes, North Reading, Laura Spinney in limine to exclude evidence of criminal disposition of plaintiff , filed. (lau) (Entered: 09/05/1997)
09/04/1997	57	Motion by Edward Hayes, North Reading, Laura Spinney in limine to exclude evidence of all financial losses suffered by the plaintiff , filed. (lau) (Entered: 09/05/1997)

09/04/1997	58	Motion by Edward Hayes, North Reading, Laura Spinney in limine to exclude evidence of plaintiff's prior rape , filed. (lau) (Entered: 09/05/1997)
09/04/1997	59	Defendant's Request for Jury instructions filed. (lau) (Entered: 09/05/1997)
09/04/1997	60	Motion by Edward Hayes, North Reading, Laura Spinney to sequester witnesses , filed. (lau) (Entered: 09/05/1997)
09/04/1997	61	Proposed voir dire questions by Edward Hayes, North Reading, Laura Spinney , filed. (lau) (Entered: 09/05/1997)
09/05/1997	62	Judge George A. O'Toole Jr. . Order entered re; defendants' motion for an Order granting access to the plaintiff's psychiatric records from 1985 to the present is hereby allowed. Entered cc/cl (lau) (Entered: 09/05/1997)
09/08/1997	63	Judge George A. O'Toole Jr.. Order of Dismissal entered...it is ORDERED that this action is hereby dismissed without costs and without prejudice to the right, upon good cuase shown within 30 days, to reopen the action if settlement is not consummated; issued cc/cl. (sat) (Entered: 09/08/1997)
09/08/1997		Case closed. (sat) (Entered: 09/08/1997)
09/11/1997		Terminated document: terminating [60-1] motion to sequester witnesses, terminating [58-1] motion in limine to exclude evidence of plaintiff's prior rape, terminating [57-1] motion in limine to exclude evidence of all financial losses suffered by the plaintiff, terminating [56-1] motion in limine to exclude evidence of criminal disposition of plaintiff, terminating [55-1] motion in limine to exclude expert testimony Requested by lau. (lau) (Entered: 09/11/1997)
09/19/1997	64	Stipulation of dismissal by Kelly J. Swain, Edward Hayes, Laura Spinney with prejudice, filed. (lau) (Entered: 09/19/1997)

## PACER Service Center

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<b>Billable Pages:</b>	4	<b>Cost:</b>	0.32