

*For Immediate Release*

## **JURY SIDES WITH CITY IN EXCESSIVE FORCE LAWSUIT FILED BY MAN ARRESTED OVER SUSPECTED BOMB DEVICE**

### ***COURT FINDS THAT POLICE USED APPROPRIATE FORCE TO RESPOND TO PERCEIVED THREAT***

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New York, November 19, 2009 – Today a Southern District jury sided with the City in an excessive force lawsuit filed by Alexander Alhovsky -- a Central Park balloon artist who was arrested after leaving an unattended, suspicious device in a Manhattan Starbucks and disobeying police commands when later confronted about it.

On June 26, 2006, police received a 911 call from a Starbucks at 66<sup>th</sup> Street and Third Avenue regarding a possible bomb left at the location. When members of the NYPD 19<sup>th</sup> Precinct and Bomb Squad arrived, they found an unattended device with metal cylinders, tubes, wiring, an attached hose and a battery. Police suspected that the device was a bomb. After the area was closed off, testing was performed on the device, and it was determined to be harmless. Employees at the Starbucks location informed officers that the person they believed left the device was a frequent customer and was also captured on security cameras. The next day, police retrieved still images from the video, as well as a copy of the video; however they could not identify the man by name.

During police surveillance at the Starbucks, officers on bicycles observed Alhovsky riding his bicycle past the store. Alhovsky was in possession of a large portfolio and had a similar device placed around his waist. Police commanded him to stop; however, he continued to ride towards them. The officers dismounted their bikes, took out their guns and again directed him to stop. Although Alhovsky slowed down his bicycle, he never fully dismounted; meanwhile he reached towards the item on his waist. Officers then apprehended him and removed the bag and the device.

During questioning, Alhovsky told police that he was a clown and that the device was used for inflating balloons. After the officers confirmed this, they released Alhovsky. Police also searched Alhovsky's home -- he had signed a consent-to-search form -- and nothing suspicious was found in the home. His arrest for possessing a hoax device was voided that day.

In his excessive force lawsuit against the NYPD officers, Alhovsky alleged that he suffered physical and mental injuries as a result of his arrest. As an aside, Alhovsky appeared in court for jury selection wearing a full clown costume, whereupon he was ordered to leave and return in proper court attire.

A jury found that force was necessary to place Alhovsky in custody and that it was reasonable for the officer to point a weapon at plaintiff since officers believed that Alhovsky was carrying a bomb.

"We are pleased the jury determined that the officers in this case used necessary force," said Law Department Senior Counsel Dara Weiss. "Since many prospective bombers conduct a 'test run' by watching how authorities respond to a hoax device, in this case the actions of the officers were absolutely

appropriate and in the interest of the greater public's safety.”

Senior Counsel Dara Weiss and Special Assistant Corporation Counsel Jeffrey Dougherty successfully tried the case with supervision from Senior Counsel Susan Halatyn. The case was tried in the Southern District before Judge Colleen McMahon.

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