

## Club Denies Afghanistan Refund

Cpl. Matthew Martin and his fiancée waited for confirmation that his Marine Corps unit was not scheduled for an overseas assignment this year before setting their wedding date.

"We wanted to be sure before we signed anything that he was not going to be deployed," explained 21-year-old Paige Lewis Martin. "We were reassured that he was going to be here. He wasn't going to get deployed or anything."

But just a little over three months before the couple's Aug. 19 intended wedding day, they learned otherwise -- and lost a \$2,500 deposit on their wedding venue as a result.

"With the military, I guess, things are never set in stone. I mean, anything can happen," Paige said as we talked at her parents' Clifton Park home. "In Matt's case, his specialty, the unit that was deploying didn't have what he was specialized in, so he was the only one that got pulled from his unit and into another one. And they said, 'Hey, you're coming to Afghanistan.'"

Just like that, Paige and Matthew's plan for a big Friday evening wedding and reception at the Mohawk River Country Club in Rexford, surrounded by friends and family, evaporated.

Instead, the couple was married in a small ceremony in San Diego on May 20, right before Corporal Martin, a 20-year-old Watervliet High School grad, was sent for additional training. He shipped out for Afghanistan on July 14.

Their wedding day still was special, but Matthew's family was unable to be there, and it was not the dream wedding they'd been so happily anticipating.

"It's definitely something that both he and I were looking forward to," said Paige. "I'll never be able to have a father-daughter dance or a first dance with my husband, and you know, cutting the cake and all that."

Paige signed a contract with the country club last November, and as soon as she and her parents learned of Matt's deployment in early May, they regretfully canceled. With more than 90 days' notice and the extraordinary circumstances, they were hopeful their \$2,500 deposit would be returned.

Because that didn't happen, they contacted The Advocate for help.

A disclosure here: Paige Martin's father and the source of the money for the deposit, Randy Lewis, works in the Times Union's advertising department. I think readers will agree with me that this situation is column-worthy regardless of that affiliation.

The contract Paige Martin signed indicates that the deposit isn't refundable, though I do not see the exact term "non-refundable" in the fine print.

There also is a section headed "Liquidated Damages" that indicates the country club actually could hold the couple responsible for additional charges beyond the down-payment because they could not hold the event.

Mohawk River club owner Rafael Flores returned my multiple messages left at that club and at Normanside Country Club in Bethlehem, where he owns a minority stake, late Wednesday afternoon.

He disputed some of the account provided by Paige and her father and insisted that he offered to credit the deposit to a future event.

He said he was unable to re-book the Aug. 19 date and actually could have sought additional payments of \$2,500 or more from the couple under the terms of the contract Paige signed, in spite of or because of the cancelation.

"I did not pursue getting 50 percent of the contract from them," Flores said.

Paige's father said he spoke with Flores by telephone on May 12, the day after the family learned of the deployment. According to Lewis, Flores initially cited the no-refunds provision but agreed to "look into it" and get back to him.

Lewis said he received no reply to his family's many subsequent telephone messages, letters and emails, and there was no response to a registered letter seeking written confirmation of the cancelation and termination of the contract.

"He won't return my calls," he said.

Lewis is adamant that Flores never offered to apply the down-payment to a future celebration -- and he's really not seeing that as an attractive prospect now. "I don't want to have anything to do with the guy, given what he's done," said Lewis, who used to enjoy golfing at the country club.

Flores said he was unable to book another Aug. 19 wedding and blamed the couple for not telling him there was a chance the groom could be deployed.

"Before they book the date, they tell us he is in the Army and we can get insurance for it," he said. "They mentioned it after, so we can't do anything."

Paige and her father say it was clear that Matthew was a Marine when arrangements were made, though they acknowledge they did not realize then that deployment was a possibility.

I checked around with experts in the wedding industry, contract law and military family life. Most could see both sides, but I heard a lot of sympathetic sentiment for the newlyweds.

"This is a business of emotions. However, it is a business," said wedding planner Katie O'Malley of Katie O' Weddings and Events. "Unfortunately, most contracts I know of with wedding vendors, the deposit is non-refundable."

Still, O'Malley said, in cases with these circumstances and advance notice, she thinks many vendors would offer at least a partial refund or a credit toward a future event.

"Ninety days is a pretty decent amount of time," she said. "There is feasibility that they could re-book something for that date."

The federal Service Members Civil Relief Act, which protects military people against some contract penalties while on active duty, doesn't apply in this case, said Albany attorney Matthew Tully, a lieutenant colonel in the New York Army National Guard.

Tully said he doesn't know of any legal provisions that could help the newlyweds, but he said some merchants do relax their rules voluntarily as a patriotic and altruistic gesture.

"As a military guy, it's definitely sad and disappointing. As a small-business owner, I definitely understand where he's coming from," Tully said of the club owner.

I note, however, that Tully also described the liquidated damages provision in the Martins' contract as "slightly unconscionable."

With a little online research, I found a Texas wedding photographer who includes military deployment, along with serious injury, illness or death, as an emergency that can void a contract.

With five days' notice, "the photographers will return any retainers made and will not charge for time or material expenses incurred while preparing for the shoot," according to that contract.

Paige and Matt Martin and their families do have an absolute ally in Kay Moody, founder of the Capital Region Chapter of Blue Star Mothers, whose children are in the active-duty military.

"That's just wrong," she said of the country club's decision not to refund the deposit. "There's always discretion. Under these circumstances, they certainly should have returned the deposit, in my opinion. I mean, really."