

Riverside is in default in federal civil rights lawsuit

By: TODD MCHALE (Fri, May/12/2006)

RIVERSIDE — The U.S. District Court in Camden has declared the township and current and former municipal police officers in default after they failed to respond to a federal civil rights lawsuit alleging police misconduct.

Attorney Vincent J. Sanzone Jr. of Elizabeth, Union County, who represents Burlington Township resident Michael Fanelle, said yesterday the defaults were issued last week after the township and the officers did not answer the complaint filed in January.

"I'm surprised they didn't answer it," Sanzone said. "It would be in their best interest to answer the complaint. All the defendants were served with summons (in February and March)."

Fanelle, 53, filed the federal lawsuit against the township, the Police Department, Lt. William Eliason, retired police Chief Donald Horner and suspended police Sgt. Patrick Vacanti.

The suit alleges that Vacanti and Eliason, his partner at the time, punched and kicked Fanelle during an arrest related to a domestic dispute on Jan. 3, 2004, at a Huellings Avenue residence.

The suit contends Vacanti was responsible for tearing the right arm ligaments from Fanelle's shoulder, causing a permanent disability, while taking him into custody that night.

Sanzone said he's handled numerous similar lawsuits but has never seen a municipality not respond to a complaint.

"You want to give people an opportunity to respond, but my client wants justice," Sanzone said of why he requested a default under the federal rules of civil procedure. "I have to assume (the township) does not want to defend this case. The next step is a judgment for default."

A judgement for default means the decision at trial would be awarded to the plaintiff because the defendants failed to contest the case.

Court documents show the township and Eliason were served summonses on Feb. 14, and Vacanti was served on March 10.

Township Solicitor Douglas Heinold said his office and the township's insurance carrier were not made aware of the lawsuit until yesterday. He said he couldn't comment on why they were not notified sooner.

"We just got the complaint," Heinold said "We will be requesting the court vacate the default."

Heinold said if the default is vacated, the township would begin the legal process of defending itself against the lawsuit.

Fanelle's lawsuit stems from a disturbance at the home of his former girlfriend.

According to the police report, officers went to the home and found the window of the front storm door smashed, but Fanelle had left the premises.

While filling out paperwork at the police station, the officers were called back to the same home twice to investigate the sound of someone pulling on the rear door.

The second time police returned to the house, they found Fanelle hiding behind a tree and wood fence on the property.

Sanzone said the officers pulled Fanelle out with such force that it caused the arm injury.

After the suit was filed in January, Eliason said he stood by the "lawful arrest."

He said officers ordered Fanelle to come out and when he refused, they used the appropriate amount of force to get him out and arrest him.

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