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Madison Council approves settlement in lawsuit filed by former police officer against chief and borough

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By

- **Barbara Rybolt | Independent Press**



Madison Police Department

MADISON — A lawsuit filed by a former officer against the police chief and the borough that alleged the officer was given outdoor patrol duty as a punishment has been settled.

On May 14 Borough Council approved a resolution added to its agenda at the last minute. The resolution, R141-2012, was not printed in the agenda but was posted on the board outside council chambers. It authorized the settlement of Summit Risk Services claim number XJ-0097.

Mayor Bob Conley confirmed that this was indeed the settlement of the lawsuit filed on June 22, 2011, by now-retired Police Officer Anthony Kaspereen. Conley said he was unable to comment further on the settlement. Borough Attorney Matt Giacobbe has not yet returned a call on the settlement.

No details of the settlement were immediately available.

The lawsuit first came to the attention of the public on Aug. 22, when Madison Borough Council by a vote of 5-1 approved a resolution authorizing the indemnification and legal defense of Police Chief John Trevena. Voting against the resolution was then-Councilman Sam Cerciello.

Kaspereen said in the complaint that he was assigned by the chief to patrol the downtown area for having taken sick days due to a sinus condition — which Kaspereen's complaint states should have been considered a disability. This assignment eventually led to him suffering from post-traumatic stress disorder, Kaspereen alleged.

The downtown area patrol was a normal assignment, according to the borough's response to the lawsuit and was not a punishment. According to published reports, the PBA filed a grievance with the department on Kaspereen's behalf because of his treatment.

Kaspereen patrolled the downtown area in full uniform, with a bullet-proof vest on, beginning July 3, 2010.

According to the lawsuit: On July 12, 2010, a dehydrated Kaspereen was taken to the emergency room after he passed out at home and the cause of his dehydration was attributed by the hospital, in part, to his new assignment.

He continued to patrol through the middle of August.

"The daily and cumulative effect of the baseless punishment, isolation and ostracization had a foreseeable, significant and deleterious effect of Plaintiff Kaspereen's physical and mental well-being," according to the lawsuit.

From September through December Kaspereen sought medical testing for a variety of conditions and was eventually diagnosed as having post-traumatic stress disorder.

Kaspereen, who was approved for disability retirement in March 2011, sought compensation for loss of reputation, injury, exacerbation of pre-existing physical conditions, punitive damages, lost pay and legal fees, according to published reports and his wife, Jennifer, also was suing the borough for loss of companionship.

Ex-Cop Gets $600K Settlement for 'Punishment Detail'

Payment includes $350,000 for 'physical injury and sickness' to a retired officer who claimed he suffered health problems due to assignment given by former Madison Police chief.



Jake Remaly,Patch Staff

Posted Mon, Aug 6, 2012 at 3:46 pm ET|Updated Tue, Aug 7, 2012 at 9:52 am ET

A retired Madison police officer who assigned in 2010 by the now-retired police chief has reached a $600,000 settlement with the borough, according to a copy of the agreement.

Officials have indicated that under Madison's legal insurance policy, the municipality is responsible for $50,000 of the settlement payments.

The total includes $350,000 for retired Officer Anthony Kaspereen's "physical injury and sickness," $200,000 for his attorney fees, costs and disbursements, and $50,000 for lost wages, according to a copy of the agreement provided Monday request filed last week. The copy of the agreement is attached to this article as a PDF.

The Borough of Madison and Police Chief John Trevena, who , were named as defendants in the case.

The agreement says the plaintiffs agreed to release federal anti-discrimination and civil rights laws claims, and loss of companionship claims by Kaspereen's wife, Jennifer.

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Madison had claimed Kaspereen was overpaid by $34,980 at the time of his retirement, and released that claim.

The parties also agreed Kaspereen would not seek any other payments, or reinstatement to the Madison Police Department.

The lawsuit claimed the "punishment detail" involved patroling downtown Madison by foot for nine hours at a time in the summer heat, and that it caused him to suffer dehydration and post-traumatic stress disorder.

According to a transcript of a deposition given in the case, PBA President Anthony Maccario, a Madison police patrolman, said the chief's alleged orders for Kaspereen's assignment particularly that Kaspereen was not to respond to calls or receive assistance at a time when , which Maccario agreed with Kaspereen's attorney, Kevin E. Barber, was dangerous.

There is no admission of wrongdoing or liability, and the parties settled "solely for the purpose of amicably resolving any and all matters in controversy or dispute, and to avoid the further expenditure of attorneys fees and other costs that would result from continued and protracted litigation," the agreement says.

The parties agreed to keep the terms of settlement confidential, but acknowledged they might be a public record under state law. If contacted by media, Madison officials may say, "The case has been resolved," or, "the parties have not admitted to any liability or to any wrongdoing or to any violations of law or statute or rule or regulation, and that the basis for settlement is to avoid protracted litigation and attorneys fees."

Borough Administrator Ray Codey has said under its legal insurance policy Madison is responsible for $50,000 of the settlement

payments, that is, 20 percent of payments up to the first $250,000. Madison also has a $20,000 deductible for legal defense fees.