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TUESDAY, August 2, 2011

50¢

City pays \$50K for alleged punch

Settlement cuts short lawsuit filed by man allegedly hit by officer while handcuffed to hospital bed

Brad Dicken
The Chronicle-Telegram

ELYRIA — The city's insurance company has agreed to pay \$50,000 to an Elyria man who was punched by an Elyria police officer while handcuffed to a hospital bed earlier this year.

The settlement prevents a planned lawsuit that Johnny Smith Jr. and his attorney Joseph Triscaro had said they were going to file against the city and



Smith

commenting. Triscaro has declined to comment on the status of a civil action since the deal was struck with

police Officer Jay Loesch for the Jan. 27 incident.

Elyria Law Director Terry "Pete" Shilling said the payment comes with standard confidentially agreements that bar Smith and Triscaro from

the insurance company.

Shilling said the city doesn't admit to liability under the terms of the agreement. The city will pay its deductible of \$25,000 in the case, but the remaining funds will be paid to Smith by the insurance company, he said.

Shilling declined to comment further.

Loesch has pleaded not guilty to a misdemeanor assault charge in connection with the alleged punch,

which police reports said took place at EMH Medical Center in Elyria after Smith was arrested in connection with the theft of beer and steaks from Apples grocery store.

Police reports and witness statements said that Smith had to be pulled from the cab of the semitrailer he was driving after nearly running down Elyria police Officer James Rider. Jeff Marcum, the man who actually stole the beer and steaks and loaded them into the semi cab, didn't

resist arrest and pleaded no contest to a misdemeanor theft charge last week.

Smith contends he didn't fight his arrest either, but police officers said he struggled with officers while he was removed from the cab and once officers had him outside. Smith insists that he was attacked by officers for no reason and that Rider struck him twice in the head with a flashlight,

See PUNCH, A2

PUNCH

From A1

allegations that both police and Special Prosecutor John Reulbach Jr. have rejected.

After he was subdued, Smith was taken to the hospital where he was handcuffed to a hospital bed. Nurses noted that Smith, who had a blood-alcohol level of 0.355, well above the legal limit, and officers were hostile to one another when they arrived.

Smith then made a com-

ment about how he wished other officers had been killed on March 15, 2010, when Ronald Palmer gunned down Elyria police Officer James Kerstetter, who was responding to a call on 18th Street.

Loesch and Officer Donald Moss responded to the scene and shot and killed Palmer when he refused orders to surrender and charged at Loesch. A county grand jury ruled that the shooting was justified.

After Smith made the comment in the hospital, Loesch and Officer Richard Walker

shut the door to the room and Loesch struck Smith once in the face, according to a nurse who witnessed the incident on a monitor connected to a security camera in the room.

Smith has said the punch nearly knocked him unconscious, while Walker described it as a blow that wouldn't have harmed his 10-year-old.

Loesch received a 10-day suspension following an internal police investigation. He didn't contest the suspension and served five days of it earlier this year. Loesch won't have to

serve the remaining five days of the suspension as long as he doesn't get in any more trouble for the rest of the year.

Smith was sentenced last week to probation and the six months of jail time he's already served after pleading guilty in April to failure to comply, obstructing official business and DUI charges stemming from his actions in January.

Bob Phillips, Loesch' attorney, declined to comment on the city's payment to Smith.

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