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Budd Lake fire co. doesn't have to pay ousted member

Said he was told he'd only be suspended for getting into fight

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Daily Record*

MOUNT OLIVE -- A federal court jury declined to award any money to a former Budd Lake Volunteer Fire Company No. 1 member who alleged he was wrongly expelled from the department after he was assured he only would be suspended for getting into a fistfight with a fellow firefighter.

The jury returned a verdict in U.S. District Court in Newark on Monday in favor of the fire company, finding Mount Olive resident Michael Foote's civil rights had not been violated at the end of a one-week trial.

Foote, expelled in 2004, sued the fire company in March 2006 on the grounds that his constitutional due process rights were violated, alleging he was not advised by the company of his right to have an attorney present at a suspension hearing. He also contended the company did not follow its bylaws in the manner in which he was terminated.

Mount Olive Township was initially named in the lawsuit, but a \$17,500 settlement between the parties was reached in December, according to council minutes.

"It was a very gutsy move for the volunteer fire department to refuse to settle," said Robert Scirocco, Budd Lake fire company's attorney. "There was no insurance to cover any verdict that the jury might have returned in Foote's favor. We're happy it's over, and that the jury vindicated my client."

Emotional distress

Foote sought compensation for emotional distress and the economic benefits he received as a volunteer, including an annual clothing allowance, workers' compensation coverage, term life insurance, free training, tuition benefits and monetary contributions that Mount Olive made to his annuity account under the Emergency Services Volunteer Length of Service Award Program, or LOSAP.

He also wanted to be reinstated to the firefighter post he started in October 1990.

On April 10, 2004, Foote and fellow firefighter Michael Dorlon got into a brief fistfight in front of the fire station and the executive committee of the fire company subsequently found them both guilty of misconduct.

At first, Foote said he was told -- along with Dorlon -- that he would be suspended for 30 days.

The lawsuit said Foote intended to return to duty with the department in May 2004 but then was notified on May 6, 2004, that the committee had reversed its suspension decision in favor of expelling him, based upon information it received on additional suspensions.

The fire company has a policy of expelling members who commit three acts of misconduct.

Neither Foote nor his attorney Vincent Failla could be reached for comment.
