

Municipal Court wants RIH records in parent lawsuit

By Frank J. McMahon

A municipal court judge has ordered the prosecutor and the defense attorney in the criminal complaint filed by Oakland parent Scott Frank against Indian Hills High School Nurse Nancy Wirkmaa to contact the attorney for the Ramapo Indian Hills Regional High School District and obtain the files and documents needed for both sides to understand the charge in the complaint and to move toward a resolution.

Judge Dennis P. Lahiff the municipal court judge in Waldwick, noted at a recent case status conference that he signed a court order in January for the files and document to be turned over to both the prosecutor, Thomas Randall, and the defense attorney, timothy Smith, but the papers have not yet been received.

Lahiff, asked both attorneys to exchange witness lists and to consider a special session of the municipal court to hear the matter so that student and teacher witnesses will not have to leave school to testify in court. "This case has been around a long time," he said. "It first appeared in January (2004) but it was filed in September or October (2003). That's over six months and it's got to be moved on."

Smith told Lahiff that he is sure the school district's attorney is not oppose to turning the documents over and there must be a misunderstanding, but he emphasized it is the prosecutor's responsibility to obtain those documents. Randall responded saying that both sides want the documents because they pertain to the possible altering of records charge being made by Frank. However, Smith told the judge, "As I sit here today I don't know what this case is about and I don't have the document that is alleged to have been altered." He said he is interested in seeing the prosecution's witness list as well as what documents he receives from the school district and the plaintiff.

The complaint stems from an altercation between Frank's daughter Raccine and another student in class on Feb. 1, 2002. Raccine was suspended from school and was not allowed to return until she submitted to a psychological or psychiatric examination by a doctor of her parent's choosing at the school district's expense. Her parents refused and she has not returned to school and did not graduate with her class in 2003.

Frank filed a criminal complaint against Wirkmaa on Sept. 18, 2003 claiming that Wirkmaa negligently altered or intentionally forged and illegally changed, or altered, school medical records related to his daughter, and that she unlawfully permitted the teacher in the class on the day of the altercation to gain access to, and take custody of their daughters school medical records which he claims are now lost.

In September 2003, the Oakland municipal court judge, Malcolm Blum, dismissed one of the counts in the complaint but found "probable cause" in the second count and sent it to the Bergen County Prosecutor's office, which transferred it to the Waldwick Municipal Court.

Papers filed by the school district with the state's commissioner of education indicate that Frank's daughter had approximately a dozen suspensions and detentions on her record. It further indicates that she was training to be a professional boxer and may not have exercised good judgement regarding appropriate behavior in school. As a result, a psychiatric or psychological examination was requested to confirm that she would not be a threat to herself or others.

The school district state that Frank had threatened and intimidated school district staff members and made repeated appearances and threats that ultimately led the school nurse to relinquish Frank's daughters records to the school principle, Dr. Robert Onorato, who took possession of the student's file to avoid any future contact between Frank and the school nurse.

The school district maintains that Raccine's nose was not broken in that altercation on Feb. 1, 2002. Frank claims, however, that his daughter's nose was broken and that his doctor has confirmed that a plastic surgeon had reviewed her X-rays and concluded her nose was fractured. He charges that his daughter's medical record of the altercation was changed by Wirkmaa so it did not show any injury to her nose. The school district maintains, however, that her nose may have been broken as a result of her boxing lessons.