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Mr. Universe sues Redwood City over arrest during insulin shock

John Coté, Chronicle Staff Writer

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(06-20) 15:09 PDT REDWOOD CITY -- A diabetic body builder who scuffled with police outside a Redwood City movie theater while slipping into insulin shock has sued the city, the Police Department and individual officers in federal court, saying police used excessive force in violation of his constitutional rights.

Doug Burns, 44, a Mr. Universe contest winner, contends officers pepper sprayed him, forced his forehead into the concrete, beat him in the rib cage with a baton and continued to strike him as he lay on the ground, edging dangerously close to a diabetic coma, according to a lawsuit he filed in U.S. District Court in Oakland.

Police have said a security guard called them to the Century 20 theater in downtown Redwood City on April 1, 2007, because Burns appeared to be drunk or on drugs. Police contend Burns took a "fighting stance" toward two officers, and one used pepper spray in an unsuccessful attempt to subdue the bodybuilder.

The two officers then wrestled Burns to the ground and needed three more officers to handcuff him, police said. One officer suffered a shoulder injury, authorities said.

Police Capt. Chris Cesena described the incident at the time as "unfortunate," but said officers had acted appropriately.

Five officers are named in Burns' lawsuit: Jaime Mateo, David Gough, Ramiro Perez, Stephen Sysum and Rich Harrington. The suit contends the Police Department failed to train officers adequately to handle diabetic emergencies and allowed or encouraged its officers to file inaccurate police reports to bolster their version of events.

San Mateo County prosecutors charged Burns in April 2007 with misdemeanor resisting arrest and assaulting a police officer, but dropped the case about two months later for insufficient evidence. Burns had a viable "unconsciousness defense" for what happened that evening, prosecutors said - his medical condition made him unable to control his actions.

According to his lawsuit, Burns' blood sugar level was 26 milligrams per deciliter when he was arrested. Death or brain damage can result when blood sugar drops below 40 mg/dl, the suit said.

Burns' arrest drew criticism from diabetics and those who treat them, many of whom complained that authorities often mistake the onset of diabetic shock for intoxication.

Burns was wearing a "highly visible" MedicAlert bracelet during the incident, identifying him as a

diabetic, according to the lawsuit.

Burns was the medium-class winner of the 2006 Natural Universe contest, a competition that stresses bodybuilding without performance-enhancing drugs. There are other Mr. Universe competitions. Burns was diagnosed with type 1 diabetes when he was 7, and often speaks publicly about his diabetes to raise awareness of the disease.

Burn's federal lawsuit seeks unspecified monetary damages, attorneys' fees and court orders requiring the Police Department to adopt "appropriate and lawful" policies on how to deal with diabetic emergencies and to train officers on those procedures.

It claims Burns was the victim of excessive force, unreasonable seizure, malicious prosecution, negligence and assault and battery in violation of his civil rights.

City Attorney Stan Yamamoto said he had not seen the lawsuit, which was filed Tuesday, and could not comment.

The federal case is the upshot of a lawsuit Burns filed in state court in February after Redwood City denied a \$5 million claim he lodged with the city. Burns dropped the state case and his lawyers refiled it this week in federal court, which his attorney Michael Haddad said was more appropriate to deal with the civil rights claims.

When his criminal charges were dropped, Burns indicated he was reluctant to pursue a lawsuit, saying he wanted to work with law enforcement officials to raise awareness about diabetes.

"My hope is that we can work together," Burns said, "and make it a positive step for other kids and other adults."

E-mail John Coté at jcote@sfchronicle.com.

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