



Judge sets trial date for Frisco Fairways libel suit ■

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A Frisco homeowners association that is suing three of its residents for libel will get the jury trial it has requested.

On Wednesday, Denton County District Court Judge Vicki Isaacks set a trial date of Oct. 7 for the case involving the Frisco Fairways Homeowners Association. In the lawsuit, the association board accuses residents David Snell, David Doumani and Doug Macari of committing libel in online postings about them.

The court hearing had been set primarily in response to a request by the association board for a preliminary injunction to block further online postings by the defendants. But lawyer Christopher Payne said that because a newspaper reporter was present, he wanted to withdraw the motion.

It is the board's desire "not to play this out in the press except for one time, at trial," Mr. Payne said.

The hearing marked the latest development in the escalating homeowners association conflict in the northwest Frisco neighborhood, sparked by a disagreement over a provision requiring homeowners to plant shrubs to screen objects visible from the street.

In the lawsuit, the board claims that Mr. Snell, Mr. Doumani and Mr. Macari began questioning board members and ultimately started harassing them, first on a community forum on the association's Web site, then in a public online forum. The board says the defendants knew the statements were false and damaged their reputations. It sued in February.

Legal documents connected to the lawsuit cite one statement from Mr. Snell, posted to an online forum, that reads: "I am victim to a LESS than ethical and honest VP simply doing/saying whatever he likes without ANY noted reprimand from HIS friend ... our president ... DOUBLE standards running wild here."

"What is going on here is you can't say the things they've said without consequences," Mr. Payne said.

The residents have said they were criticizing the board for enforcing certain policies and for generally being unresponsive, including not meeting with them. They also characterized one of the board members as being threatening.

In a legal response filed by the defendants highlights a private message that Mr. Snell said was sent to him by board member Richard O'Neil. It reads: "Did I paint you in a negative lite? Only in regard to your idiot posts and your constant whining like a 3 year old."

Mr. Snell's attorney, Charles "Trey" Branham III, denies that any of the defendants' statements constitutes libel.

"The question here is: You represent the homeowners. What is so difficult about meeting with the homeowners?" Mr. Branham said.

Free speech experts have said cases like this are rare and rarely succeed, but those that do can have a chilling effect on future criticism of homeowner associations.

The homeowners association board members who brought forward the lawsuit — Phil Luzius, Mr. O'Neil, Gabriel Corra, Dave Wilcox and John Mistr — did not attend the Wednesday morning hearing in Denton. Mr. Snell, Mr. Doumani and Mr. Macari were present.

Without an injunction, the three defendants "are free to voice their opinion about what the board is doing, not doing, or how they're doing it," Mr. Branham said.

Mr. Doumani said he intends to keep up his criticism, in part because he is running for one of three seats opening up in May.

He and the other defendants say they are seeking more transparency from the board. In Texas, homeowner association boards are not required to hold open meetings except for once a year, when board elections are held. They also are trying to learn whether association dues are being spent on the lawsuit.

When asked who was currently paying for the suit's legal costs, Mr. Payne said he would not disclose that information.

Then he added, "Ultimately, the defendants will be paying for that. I'm confident of that."