

TRINITAS CIVIL RIGHTS DECISION PUT OFF

OWNERS GIVEN UNTIL MAY TO MAKE \$12M CASE AGAINST COUNTY

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MODESTO - A U.S. Bankruptcy Court judge who had threatened to dismiss a \$12 million civil rights lawsuit filed against Calaveras County by the owners of the Trinitas golf course decided Wednesday to give Trinitas owners Mike and Michelle Nemees more time to make their case.

U.S. Eastern District California Bankruptcy Court Judge Ronald Sargis had indicated Tuesday that he planned to dismiss the lawsuit, because the Nemees have not moved forward with it since it was filed in October.

"So why is this languishing in my court?" Sargis asked attorney Ken Foley, who is representing the Nemees.

Foley's response: "We hope it will languish a little longer, because we don't feel it is ripe."

Foley explained that the civil rights case needs to stay on the books to give the Nemees a chance to recover their economic losses if they eventually win in a different case. That other case is a lawsuit in which the Nemees argue that golf is a legal form of agritourism in Calaveras County and so their course has legal status.

Calaveras County officials say golf is not allowed on agricultural land, and the Calaveras County Board of Supervisors in 2009 twice voted against measures that would have granted Trinitas legal status.

The golf course was built without permits on 280 acres in an agricultural preserve on Ospital Road, south of Wallace.

Last year, however, the Nemees lost their agritourism suit in a trial in Sargis' court. They are now appealing that loss to the U.S. District Court in Fresno.

Meanwhile, Community Bank of San Joaquin has foreclosed on 160 acres of the golf course and is scheduled to hold an auction Friday that would allow it to foreclose on the remaining 120 acres.

The Nemees filed for bankruptcy in 2009 to prevent the bank from foreclosing.

After the verdict in the agritourism trial went against them, Sargis gave the bank permission to move ahead with its foreclosure auctions.

The civil rights lawsuit alleges that former Calaveras County planner Shaelyn Strattan, former Planning Director Robert Sellman and former interim Community Development Agency Director Brent Harrington violated the Nemees' constitutional rights to due process by mishandling their efforts to win legal approvals for Trinitas and by telling them they could not operate a golf course on land zoned for farming.

Foley said that part of the reason he has not made progress on the civil rights suit is that Strattan and Harrington have been avoiding service of the documents detailing the accusations against them.

"Mr. Harrington - we were finally able to serve him because he was a prospective juror in a case I had in Calaveras," Foley said.

Calaveras County Counsel Janis Elliott said that she has been in contact with Harrington and Strattan. She disputed Foley's claim.

"I do not believe either of them are evading or dodging service," Elliott said.

Sargis gave Foley until May 9 to get his summons served and have the suit's paperwork in order.

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