

Smoking neighbor sued in EDH

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An El Dorado Hills couple is suing their neighbor for what they call excessive cigar and cigarette smoke. The case puts a twist on a decades old legal saying.

"My right to smoke ends where your nose begins," attorney David **Trapani** told the Mountain Democrat this week.

Trapani represents Richard and Donna Ganguet, ages 72 and 62, who live in a 55 and older community.

"The neighbors have a habit of smoking at all hours of the night and day, including when my clients are trying to sleep. The smoke is infiltrating not just into the back yard, but into the ventilation, and into my clients' home," **Trapani** said.

Richard Ganguet is in the early stages of congestive heart failure, **Trapani** said. The neighbors' smoke is allegedly causing health and property damage.

"The amount of second-hand smoke tolerable to persons with heart disease is nominal to zero. My client is breathing this smoke. It's a serious health concern," **Trapani** said. "We're not saying people shouldn't smoke. But the goal is definitely to get the neighbors to stop, or to limit their smoking."

The neighbor is Florence Solone, who lives with extended family.

Her attorney Douglas Smith says it's a trivial dispute that doesn't belong in a court of law.

"This is probably the most ridiculous case I've seen in 23 years. It's just silly. It's a neighborhood dispute that should have been resolved by neighbors talking.

"The allegations are not true. My clients have taken steps to limit the amount of smoking. They would be willing to work this out instead of watching lawyers get rich," said Smith.

But the Ganguets already tried speaking face to face with their neighbor, according to their attorney.

"They talked, and it seemed the volume of smoke actually increased. One of the occupants of the home continues to smoke even after the service of the lawsuit," **Trapani** said.

The Ganguets are seeking compensation for the alleged damages. **Trapani** would not put a dollar amount on the case.

A national report this month confirmed what health officials have long believed - there is no safe level of secondhand smoke. Even limited exposure to second-hand smoke can increase the odds of a heart attack, states the report written by an expert panel commissioned by the Centers for Disease Control.

"If you have heart disease, you really need to stay away from second-hand smoke. It's an immediate threat to your life," writes co-author Dr. Neal Benowitz.

Trapani said he didn't know of any previous cases of smoking lawsuits involving homes. But there have been cases involving smoking in apartments, he said.

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