



## Gene Garner Lawsuit Synopsis

### Description

## UPDATED 4-28-2020

***“Today I dismissed my complaint (Non-Suit) against the HSV POA from the Saline County Circuit Court docket.” – Gene Garner***

by **Karen Daigle Lundberg**, July 4, 2019

This is a synopsis of Gene Garner’s lawsuit against the Board of Directors and HSVPOA. This is a quite complicated lawsuit, and until today, I have never fully read it. I did so today, and here is what I see. Gene Garner is stating in his Complaint that back when John Cooper turned over his rights to the Protective Covenants, with the exception of any property he still owned, those rights were turned over to the POA. Please remember that WE are the POA; not the Board or CEO. So, in effect, Cooper relinquished his right to the Protective Covenants to the members of HSV.

### HSVPOA Board overreach

Mr. Garner is stating in his lawsuit that the Board of Directors overreached their rights, “scrapped” the old Covenants and created new ones. This was not the deal made when Mr. Cooper turned over his rights. It is specifically stated in the document where John Cooper waived his rights to the Protective Covenants to all property, except his property, that the Protective Covenants could be amended by agreement of the POA (US), but that creating a new set of them was not the agreement. It is Gene Garner’s opinion and states in the lawsuit that this is not what was done. His argument is that the Protective Covenants were taken over by a group of seven people (the Board) and took all of the rights away from the property owners to have any say in the amendments to the Protective Covenants. He also states that the Board overreached by taking the rights of the POA (members) away, and also by rewriting the Covenants, which was not in their power to do so.

## **Stall tactic!**

When a Complaint is filed in a lawsuit, the Defendants have 30 days to file an Answer to the lawsuit. The Board of Directors and HSVPOA (“Defendants”) filed for an extension of time to file an Answer and the extension was granted. STALL TACTIC!!

## **HSVPOA alleges these are the same allegations already settled in last Garner v HSVPOA suit**

On March 15, 2019, approximately 45 days from the filing of the original Complaint, the law of firm of Quattlebaum filed an Answer on behalf of Defendants. On the same day as Quattlebaum filed their Answer on behalf of Defendants, they also filed a Motion for Judgment on the Pleadings. When a Motion is filed with the Court, a Brief in Support of that Motion will always be filed, and that entails the explanation of the party filing the Motion as to their reasons for wanting the Judge to dismiss the case. In this instance, the Defendants are stating in their Brief to the Motion that Mr. Garner has already filed a lawsuit regarding the same points he previously filed suit under and lost, both in Court and in Appeal. The Defendants are stating that he is arguing the same matter that has been ruled on already.

## **Garner states this is totally different**

Attorneys for Gene Garner then filed their own Motion and Brief stating that this latest lawsuit is NOT the same allegations. He is stating that the Board did not just amend a few Protective Covenants, but wiped the slate clean, and went from a three-page document to a 119-page document for the Protective Covenants, and it is his opinion they did not have the right to do it.

## **Decision may not be rendered from the bench**

That is my opinion also, but I’m not the Judge. So now both parties are asking the Judge to rule on the Motions that have been filed, and that is what the Judge will hear on August 8th. After Gene Garner’s attorney filed their Motion and Brief, Defendants came back and filed a response to Mr. Garner’s Motion and Brief, basically stating that the Judge should rule in Defendants’ favor and deny Gene Garner’s lawsuit. As posted, the hearing (trial) is scheduled for August 8th in Saline County, in front of **Judge Phillips**. Judge Phillips will more than likely do as Judge Herzfeld did in the CCI case, and take it under advisement and file his decision in the court record. This is very standard for Judges to do. Rarely will a Judge rule from the bench immediately after the trial. The Judges go back and look up the case law, they study the facts as presented during the trial. Some rule quickly; some take quite some time to make their ruling. This is not something I can guess about.

**Most importantly I would like to make this statement regarding the Gene Garner lawsuit and any other lawsuits that are filed in the future. I strongly urge anyone contemplating filing a lawsuit against the HSVPOA, that when they do so, they request a special judge to come in and hear the case. This is allowed to be requested, and as everyone, hopefully, knows by now, I print nothing or say nothing that I do not have verifiable proof on. That is not saying I will produce the proof, but if I say I have the proof, I do. I have stated this once, and I will state it again. I specifically heard the attorney from the Quattlebaum Law Firm state that we do have the benefit of elected judges in Saline County which could add the favoritism benefit to HSV. I believe we had a fair hearing with Judge Herzfeld, but he was only assigned the CCI case and no others. All of the other cases have been assigned to Judge Phillips, the other judge who hears civil**

**cases in Saline County. Please beware when filing a lawsuit, if you choose to do so. (This statement is made by me, Karen Daigle Lundberg, and I take full responsibility for it.)**

Editor's note: We believe it is important to support Gene Garner's efforts and attend this hearing, if at all possible. It would be wonderful to have a large show of people. This hearing is being held in the Saline County Courthouse, located in Benton, Arkansas. This is the 22nd Judicial Circuit, Division 3, 200 North Main on August 8, 2019, at 9 a.m. Be careful where you park. If you park in the wrong place, you will be towed.



by [Karen Daigle Lundberg](#), July 4, 2019

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