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Defendant sues trial witness over website posts

Adolfo Pesquera

A Stuart doctor **being sued** over a boating accident in which a diver's legs were severed has filed a libel lawsuit against a witness and a website based in Palm Beach County.

Emergency room physician Roger Nicosia, represented by Robert Elder III of Crary-Buchanan in Stuart, alleges in a Jan. 10 complaint assigned to Martin Circuit Judge Sherwood Bauer Jr. that Lisa Rollins of Charlotte County and three others are conducting a "full-blown pursuit to destroy (his) reputation, livelihood and good name."

Rollins answered the libel suit Feb. 18 by denying the claims against her. A witness to the Jan. 9, 2009, accident, she insisted her published statements on a website for spearfishing divers are accurate.

Rollins claims she was in the water with Robert Murphy when Nicosia's boat cut Murphy's legs below the knees.



MELANIE BELL

Fort Lauderdale attorney Steven Osber, left, represents Lisa Rollins, a witness in a boating accident who is accused by the defendant of libel for online statements.

Rollins and the other defendants — Christopher Bartlett of Duval County, John Etzler of Seminole County and Philip Grogan of Palm Beach County — claim Nicosia ignored a properly displayed dive flag and fled the scene.

Nicosia asserts there was no dive flag, but he offered assistance. He also claims the divers were so angry that they cursed him and refused his help. Nicosia said the divers left the scene first.

He was convicted in a criminal trial of violating navigational rules, a second-degree misdemeanor. He was sentenced to six months probation and ordered to pay \$15,000 in restitution. Nicosia is appealing his sentence.

Nicosia's libel suit seeks an injunction, demanding Spearboard.com, Grogan's website, cease publishing libelous statements about him and all existing libelous postings be removed.

Rollins maintains all of the content is protected speech under the First Amendment and accuses Nicosia of going after her with "unclean hands."

Nicosia "is improperly using this lawsuit solely to intimidate, coerce, threaten and retaliate against Rollins as she was a material witness that led to (his) criminal conviction," said the answer drafted by Rollins' attorney, **Steven Osber**, a partner at **Kelley Kronenberg** in Fort Lauderdale.

Rollins is scheduled to be a witness in Murphy's 2009 negligence suit against Nicosia in Palm Beach Circuit Court.

In a counterclaim, Rollins accused Nicosia of "abuse of process" and "witness tampering" and seeks more than \$1 million in damages.

"As further evidence of Dr. Nicosia's callous indifference, his lawsuit was filed on the two-year anniversary of this tragic accident," she said.

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