

## **California Jury Awards Family \$2.7 Million in Mold Injury Case! by Mealey Publications**

SACRAMENTO, Calif. — A California jury on November 7th awarded a family living in an apartment complex \$2.7 million for injuries allegedly caused by mold exposure (Darren Mazza, et al. v. Raymond Schurtz, et al., No. 00AS04795, Calif. Super., Sacramento Calif.). (Verdict Sheet in Section A. Document #42-011203-101V.)

***... they were repeatedly hospitalized  
for injuries caused by mold after moving into  
their apartment.***

Sources told Mealey Publications that Darren Mazza, his wife, Marcy, and his son, Bryce, allege that they were repeatedly hospitalized for injuries caused by mold after moving into their apartment. Alleged injuries include breathing problems, severe headaches and gastrointestinal problems. Medical bills for the family were more than \$110,000, sources said. Named defendants were the owners of the apartments, the managers and general partners: Raymond Schurtz, Partridge Pointe Investors, The Raymond L. Schurtz Revocable Irrevocable Trust, Partridge Pointe Investors Joint Venture, Partridge Pointe SPC Inc. and Sacramento Partridge Pointe and Westcount Management. According to sources, water intrusion was first noticed in November 1999 through a vent in the master bathroom. The sources said it was later discovered that water was leaking from the toilet upstairs. Sources said the defendants disputed the plaintiffs' position that although management was notified of the leak, the leak persisted until they moved out of the apartment in June 2000.

Sources said that in December 1999, a leak was discovered in the kitchen window. Sources said the kitchen window leak was later attributed to a broken dishwasher in the unit above. At that time, sources said the maintenance crew discovered mold in the bathroom. Additionally, sources said Mazza alleged that the sprinkler system was hitting the exterior wood siding. Sources said the mold discovered within the apartment include *Stachybotrys*, *Penicillium*, and *Aspergillus*.

According to sources, the defendants maintained that they had no notice of the alleged damages. Although sources said Mazza maintained that he verbally notified the defendants of the alleged defects, the defendants countered that there was no written notice given of the alleged defects.

The sources continued that Mazza maintained that the defendants had constructive notice because there were similar problems in other units. However, they said the defendants countered that though there were similar problems outside of the Mazza unit, those problems were not discovered until after the Mazzas moved out.

### **Claims Presented**

Claims presented to the jury included negligence, breach of contract, nuisance, negligent infliction of emotional distress and constructive eviction. The jury answered yes to the following questions: Were any of the defendants negligent? Was the defendants' negligence a cause of injury? Did any of the defendants breach the lease? Was the breach of lease a cause of damages? Did any of the defendants breach the implied warranty of habitability? Was the defendants' breach a cause of damage? Did the act or omission of any defendant create a condition constituting a nuisance? Was the nuisance a cause of injury? Did the defendants engage negligently in conduct that caused serious emotional distress? Were the plaintiffs constructively evicted? Was the constructive eviction a cause of damage? The jury awarded Darren Mazza \$146,615 in economic damages and \$950,625 in non-economic damages. The jury awarded Marcie Mazza \$90,016 in economic damages and \$699,850 in non-economic damages. Additionally, the jury awarded Bryce Mazza \$93,355 in economic damages and \$740,910 in non-economic damages. Plaintiffs' experts included Frederick Herman, an allergist and immunologist in Roseville, Calif., and Vincent Marinkovich, an allergist in Redwood City, Calif. Defense experts included Eric Gershwin, an allergist and immunologist in Davis, Calif.

Sources said that the trial lasted under

three weeks and the jury deliberated for approximately six hours. Additionally, sources said a pretrial demand of \$1 million was made, which was the policy limit, and an offer of \$75,000 was made and refused. An appeal is expected.

### **California Judge Rejects Challenges to \$2.7 Million Mold Personal Injury Case**

Defendants claimed that the damage awards were excessive, unprecedented and a result of the passion and prejudice of the jury rather than a fair and considered weighing of evidence. Following the release of the verdicts, the jurors, many with tears in their eyes, hugged the plaintiffs. According to the defendants, the jurors' sympathy and behavior was far removed from a jury's expected demeanor. A request for a new trial was submitted. A California judge on January 7<sup>th</sup> denied requests to order a new trial or issue a judgment notwithstanding the verdict in a case in which apartment residents were awarded \$2.7 million for injuries allegedly caused by the mold exposure.

### **Confidential Settlement Reached in California Mold Personal Injury Case**

Following the \$2.7 million jury award for injuries allegedly caused by mold exposure, the apartment residents finally reached a **confidential settlement** on April 12th, sources told Mealey Publications.

***[Editor's Note: You'll be seeing more lawsuits like this one about mold, lead paint, discrimination and fake injuries. That's exactly why I encourage you to attend the "Asset Protection" seminars that AOA has been offering at all of our meetings. Discover how to protect your assets by attending these seminars! Please visit [www.aoausa.com](http://www.aoausa.com) for our schedule of events.]***

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