



Press Release

Santa Monica Jury Rejects Claims of Catastrophic Brain Injury From Exposure to Mold; Plaintiff...

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SANTA MONICA, Calif., March 22 /PRNewswire-USNewswire/ -- Early this week, a Santa Monica jury returned a defense verdict in a closely watched toxic tort case involving allegations of catastrophic brain injury from alleged mold exposure. Plaintiff Steve White alleged he contracted allergic fungal sinusitis which led to permanent neurological damage caused by a brain abscess, as a result of alleged toxic mold exposure while living at a Simi Valley apartment complex. Mr. White's undisputed medical costs were in excess of \$264,000. The jury trial took place in Santa Monica, California before the Honorable Jacqueline A. Conner.

White alleged at trial that one of the nation's largest real estate investment trusts which managed his apartment was responsible for his injuries, demanding \$2.5 million going into trial. Representing the defense in this matter were Wood, Smith, Henning & Berman partners Victoria Ersoff and Seymore Everett. Plaintiff was represented by three attorneys from the Law Offices of Brian D. Witzer, including prominent trial attorney Brian D. Witzer. Mr. Witzer is considered by some to be the foremost plaintiff's counsel in the field of toxic environmental litigation, having received almost \$25 million dollars in a single settlement for a "toxic mold" case, which remains the highest result during trial achieved in the U.S. for this type of litigation.

Plaintiff Steve White attributed significant and permanent brain damage as a result of allergic fungal sinusitis. The plaintiff underwent life saving emergency surgery on January 9, 2005, to treat his condition. The law suit was filed on June 30, 2006. The trial included testimony from thirty two witnesses. Fourteen witnesses were identified as experts for the parties and key testimony was also solicited from four of the physicians who personally treated Mr. White.

Plaintiff accused defendants of failing to respond to unverified complaints of mold in plaintiff's apartment over the course of his tenancy which was less than one year. During trial defense counsel demonstrated that the complaints were not made to the defendant in a reasonable and proper manner. In addition, defense counsel successfully refuted the medical basis for plaintiff's claim of allergic fungal sinusitis. Following the trial, Ms. Ersoff commented, "while plaintiff's injury was significant and traumatic, there simply is no credible evidence to support Mr. White's claim of Allergic Fungal Sinusitis based upon the well accepted diagnostic criteria in the medical community."

In a shocking turn of events during the trial, defense counsel called a former girlfriend of Mr. White, who for the first time disclosed to the jury that Mr. White was previously evicted from a former apartment because he created a dangerous condition from mold from a fish tank in his apartment. The testimony was later confirmed on cross-examination of Mr. White's ex-wife who was called as a rebuttal witness by Mr. Witzer. Trial attorney Seymour Everett who examined both witnesses, commented, "the importance of revealing plaintiff's prior exposure to mold and knowledge of mold was key to establishing plaintiff had a heightened duty to comply with our client's mold lease addendum." The testimony reinforced the importance of property managers and tenants' bilateral obligation to comply with a mold lease addendums. Mold lease addendums are becoming more common place in the property management industry as a way to educate and protect both tenants and property managers.

Prior to trial, defense counsel served an offer to compromise pursuant to California Code of Procedure section 998. Defendants intend to file post trial motions to recover attorneys' fees and costs.

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