

Jury Finds Toxic Mold Harmed Oregon Family, Holds Construction Company Responsible

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A Clackamas County jury on Friday (March 4, 2005) held Adair Homes Inc. of Beaverton responsible for improper construction that allowed toxic mold to thrive inside a Sandy, Oregon family's new home and that led to that family's severe respiratory, digestive and other health problems.

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The children and their mother suffered from diarrhea, nausea, vomiting and respiratory problems that the jury agreed was caused by the toxic molds in the new home, whose drywall and insulation were installed while the frame was still wet. Those wet conditions allowed the mold to grow, experts said.

"You couldn't have made the framing in that house more wet if you had sprayed it with a firehose. This verdict is significant because it holds construction companies responsible when they negligently build sick buildings," said Kelly Vance, the family's attorney.

Adair Homes, Inc. builds hundreds of residences each year in Oregon, Washington and Idaho for low and moderate income customers. The company built the house on the Haynes family's five-acre lot in early 2002. The family discovered the mold in the walls four months after moving in. Their symptoms had already set in and with the discovery of the toxic mold, they called the company, which denied responsibility.

"We had been sick since moving in and when we found the mold, we called Adair. The company said that the mold was not a problem, and that we should not worry about it so we stayed six weeks longer until my symptoms got even worse. We moved out after my face fell numb," said Renee Haynes. The family is living in its old home, on the same lot as the contaminated building.

At trial the evidence showed that there was standing water inside the wall cavities and in the crawl space for many months after construction was completed. Experts testified that this trapped moisture led to the growth of toxic mold.

The medical expert for the Haynes family confirmed through blood tests performed by two different doctors that Renee Haynes and Michael had mold antibodies in their blood. The presence of such antibodies indicates a significant exposure.

Several experts, including a medical doctor, occupational therapists and a clinical and neuropsychologist testified concerning the Haynes children's developmental and sensory integration disorders after moving into the Adair house. The Haynes doctors and therapists all agreed that Liam's and Michael's treatment will continue for several years. Michael's teacher testified that he was placed in a special disabled room at school and may need to remain there until at least junior high school. She expects Liam to suffer the same fate.

The Haynes family almost did not even get to tell their story to a jury. Adair, like many other commercial entities, utilizes an arbitration clause in its contract. That clause designates a specific arbitration service - Construction Arbitration Services -- based in Dallas, Texas as Adair's preferred arbitration service. After the case was filed, Adair moved to stay the case pending arbitration and submitted an affidavit from the owner of the arbitration service, Marshall Lippman.

The judge allowed the case to go to trial when the family' attorney showed that Lippman had submitted a false affidavit concealing the fact that he had been disbarred by the State of New York and Washington D.C. The disbarments occurred because Lippman had been found to have stolen funds from his clients.

For further information contact:

Renee and Paul Haynes (injured family), 503-975-7859

Diane Dulken, Oregon Trial Lawyers Association 503-936-6323

Kelly Vance, attorney, 509 448 2588

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