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Jury Awards \$2.7M In Calif. Mold Case

By Catherine Tapia (<https://www.insurancejournal.com/author/catherine-tapia/>) | November 26, 2001

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In what has been deemed the largest personal injury verdict in a toxic mold-related lawsuit in the U.S., a Sacramento, Calif., jury awarded D does not include the plaintiff's attorney's fees and costs, for which John C. Miller, an attorney from the firm of Charter Miller Davis LLP in Sa

The case, which lasted approximately two and a half weeks, stemmed from a lawsuit the Mazzas filed against the owners and managers of Management. The Mazzas rented a unit in the complex from August 1997 until approximately June 2000. The insurer involved, though not r companies filed a declaratory relief action challenging coverage scheduled for trial in January.



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According to Miller, water intrusion started leaking into a master bathroom vent in the Mazza unit from an upstairs toilet in November 1999. Miller requested repair, but that proper steps toward remediating the problems were not undertaken. Miller added that there had been other sources of T111 wood siding. According to court documents, the plaintiffs maintained that “the premises contained toxic mold and toxic mold spores.” Miller learned after moving into the apartment.

Miller said that the unit in which his clients resided had levels of stachybotrys, aspergillus and penicillium on surfaces, in air and in a carpet. Miller learned, after a specialist tested the Subject Property, that the Subject Property contained toxic mold... On or about July 26, 2000, Plaintiffs Miller might be related to the toxic mold found within the Subject Property.”

The Mazza’s lawsuit was filed in December 2000 and contained six causes of action: negligence; breach of contract; breach of implied warranty of habitability; and wrongful eviction. In every one of the claims, the jury was unanimously in favor of the plaintiffs.

Miller also confirmed that the plaintiffs underwent separate types of blood tests, which measured IgE, IgG antibodies. Simply put, the two different tests determine whether an individual has an allergy to, for example, mold, cats, dogs, horses, dust, etc. IgE demonstrates whether a person is allergic and his/her body is trying to fight off that substance.

“The plaintiffs were not allergic to mold according to some of these tests, but the defense witnesses disregarded the two other types of expert testimony. “Just because you’re not allergic to mold doesn’t mean you’re not going to have symptoms.”

“My clients had positive IgG antibodies to the molds found in the apartment, which is consistent with their respiratory symptoms,” Miller contended. “My clients kept in their apartment. “My clients had cats for 11 years with no problems before they moved into this apartment,” he said.



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Parties with knowledge of the case noted that the counsel for the plaintiffs worked closely with a Sacramento doctor, who testified to the jury that the plaintiffs were complaining. While the defense argued that there was no medical or scientific basis for the questions, after a separate hearing outside of the courtroom. Furthermore, the defense maintained that the IgG was performed as a MAST test, which it stated has been discredited as a valid method. C

be an issue on appeal.

In fact, the question on many minds within the defense bar, which deals with mold-related cases, is: What evidence was brought in to convi

The reliability of the IgG referred to in the case, a type of isotype-specific ELISA test, was not conclusively validated in a recent California D determined that such serology tests “have no clinical application at this time.” The fact sheet also states, “The U.S. Food and Drug Administ

Miller noted that he himself had called most of the defense’s own witnesses instead of waiting for them be called on directly and then doing

When contacted by Insurance Journal, Rick Rodgers of Dillion & Rodgers in Sacramento, who was counsel for the defendants, said only the releasing comments at this time.”

According to experts, the major difference between this case and the \$32-million decision in the Ballard mold case in Texas is that in that ca plaintiffs—no evidence of bodily injury came before a trier of fact. At issue was solely the question of insurance handling and bad faith.

In Ballard in particular, the defense made a Daubert motion to exclude all of the evidence the Ballards wanted to put on to show how they h: admissibility of evidence than California—excluded all that testimony. All the Ballards received money for was the value of their house and r single component of the \$32 million verdict, was purely punitive or exemplary damages levied against their insurer. The jury never got to the

Was this article valuable?

WRITTEN BY

Catherine Tapia

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November 26, 2001
Insurance Journal Magazine

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Featured Comment



Julie Andrews says:

Looks like mold victims may be starting to gain ground against mold. It's too bad for people like me and our families who didn't have the resources to sue our perpetrators who left knowing what was making us sick. We moved to only find out that we were permanently damaged. My family and I suffer and worst of all there is very little medical help and every won't be published health reports to help people sticken with mold sickness until more people take action against their mold experience. Nobody would help us because we were told that; "Mazza's mold experience relates to our own personal expereince. I'm just glad that the Mazza got recognized for their flight. Now more people need to come forward so our world can fight are left to suffer with no help at all medically or litigation. Sometimes I wonder how damaged my body is because I have many symptoms and nobody can help me.

Latest Comments



Cindy Muse says:

Can you Please pass the name and doctor's number me our family was exposed to 3 different toxic molds out spour count was high I am afraid for my family! We are still having...



Jordi Bertloom says:

I sued my landlord for mold and rodents infestation. I got sick with pneumonia because I was exposed to mold at our bathroom, carpet and breathing the rodents droppings when I

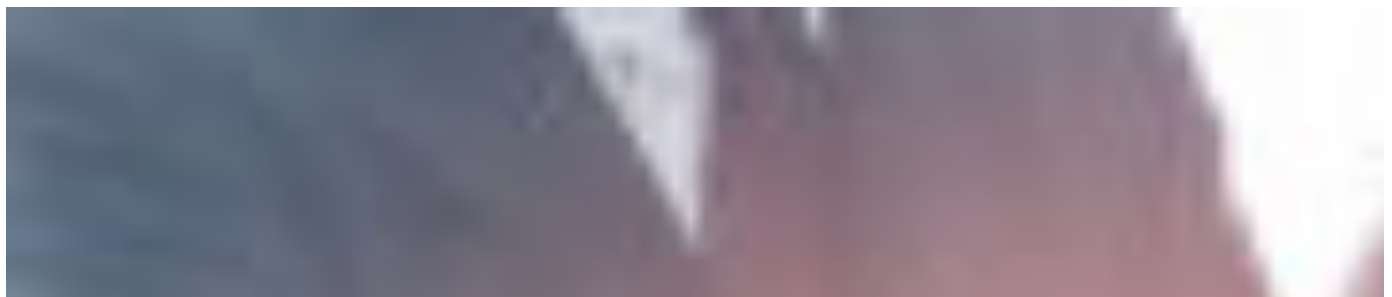


Eric Strongin says:

As an attorney handling toxic exposure matters, I have handled hundreds of matters relating to mold, and bodily injury because of mold exposure and living in a water damaged b.

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