

BUSINESS

Ed McMahon Settles Suit Over Mold for \$7.2 Million

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Insurers and others have agreed to pay Ed McMahon \$7.2 million to settle a lawsuit alleging that toxic mold spread through his Beverly Hills home, sickening the former "Tonight Show" sidekick and his wife and killing their dog, according to court records.

The settlement is the highest published recovery in the nation by an individual alleging property damage in a mold case, said Chicago attorney Michael Childress, who leads an American Trial Lawyers Assn. group that tracks such litigation.

McMahon and his wife, Pamela, sued American Equity Insurance Co. in April 2002 for breach of contract, negligence and intentional infliction of emotional distress. The couple and members of their household staff were sickened by toxic mold that spread through their six-bedroom, Mediterranean-style house after contractors failed to properly clean up water damage from a broken pipe, their lawsuit alleged.

McMahon's doctor ordered the then-80-year-old to move out of his 8,000-square-foot house overlooking Coldwater Canyon after he spent four months on antibiotics for coughing, sneezing and congestion. His health improved.

The McMahons' dog, Muffin, a mutt that resembled a sheepdog, began suffering from a respiratory illness about the same time the mold was discovered and had to be killed, said McMahon's attorney, Allan Browne.

The McMahons, who at first rented a \$23,000-a-month house but then moved to reduce expenses, are having the mold removed from their property by replacing walls and treating beams, Browne said Thursday. They plan to return home in five or six months.

The pipe broke in July 2001 and flooded their den, which was filled with memorabilia from McMahon's television career. The McMahons discovered mold in the den a month later. It spread through the heating and air-conditioning ducts to their bedroom, invading their closets and contaminating their clothes, according to the suit.

Workers originally painted over the mold, prompting the McMahons to question the cleanup methods, the suit said. As the project became more expensive, insurers and contractors abandoned it, and the McMahons sued.

In the last two years, several multimillion-dollar cases have been resolved against insurance companies and others for mold contamination in homes.

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Darren and Marcie Mazza and their 8-year-old son won a \$2.7-million verdict in November 2001 against the owners and managers of their Sacramento apartment complex for personal injuries suffered from mold.

In Texas, a jury awarded Melinda Ballard and her family a record \$32.1 million in June 2002 for mold-related damage to their home, an award later reduced to \$4 million. The case is on appeal to the Texas Supreme Court.

And Erin Brockovich, the paralegal whose crusade against toxic polluters was made into a movie, also has sued in Los Angeles County Superior Court, alleging mold damage. She has settled with the builder and is still pursuing claims against the seller, her lawyer said Thursday.

McMahon's attorneys, Browne and Alexander Robertson, and a spokesman for American Equity Insurance Co., now part of Travellers Property Casualty, declined to comment on the settlement, citing a confidentiality clause.

But Los Angeles County Superior Court Judge Mary Ann Murphy earlier this year ordered McMahon's lawyer to put into the court record every settlement in the case.

At that court hearing, Brian S. Kabateck said McMahon would receive \$5.05 million from American Equity Insurance Co. and the other insurers; \$750,000 from Benchmark; \$500,000 from Alliance Environmental Group; \$250,000 from Southern California Insurance Adjusters and Robert and Ken Koster; \$250,000 from Pacific Health and Safety Consulting Inc.; and \$3,000 from California Power Vac, according to a transcript.

Controlled Environmental Solutions has since settled for an additional \$230,000, according to court documents. And Monteleone Interiors Inc. added \$200,000 to the total settlement, Kabateck said Thursday.

Ballard, who established the Austin, Texas-based Policyholders of America last year "to empower policyholders" in their dealings with insurers as her mold-suit lingered in the court system, said that although McMahon's settlement is the largest to date, she is not sure that \$7 million will cover all his losses and litigation expenses. Nor does it give her hope for more out-of-court settlements.

"What's his loss? I don't know," she said, estimating that McMahon spent several hundreds of thousands of dollars on expert witnesses alone.

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