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Home incurs water damage, mold: Breach of warranty: Fraud: Economic losses: Verdict: Punitive damages

[Law Reporter, Dec 2004](#)

Lazarus v. Four Corners Dev. Co., Mich., Oakland County Cir. Ct., No. 02-045080-CZ, Aug. 30, 2004.

The Lazaruses bought a new home from a development company, which told them they did not need to have the home inspected because it was providing them with a one-year limited warranty to fix any problems that arose. They subsequently discovered problems with the exterior cladding that resulted in water damage to the exterior walls, and tried to apply the limited warranty to the repairs. The developer refused to repair the damage. The water damage led to mold growth, which eventually caused deterioration of the exterior wall. The Lazaruses were unable to sell the home and could not afford the extensive repairs, so they continued to live there with the mold. They obtained estimates of home repairs in excess of \$500,000.

The Lazaruses sued the development company and its owner, alleging breach of warranty and silent fraud. Plaintiffs alleged defendants knew about the faulty cladding because numerous inspections, which revealed the problems, had been performed prior to selling the home. Defendants allegedly failed to disclose these inspections to plaintiffs. Plaintiffs also alleged defendants were aware the cladding systems had been the subject of class action lawsuits.

Defendants contended plaintiffs signed a purchase agreement stating the house was being sold "as is" and thus the limited warranty was not applicable.

A jury awarded plaintiffs \$350,000, including \$12,500 in exemplary damages.

Plaintiffs' experts were Connie Morbach, indoor air quality, Troy, Mich.; Terry Baker, microbiology, Flint, Mich.; Michael McGinnis, mycology, Galveston, Tex.; Steven Bostwick, forensic architecture, Cincinnati, Ohio; and George Riegel, mold inspection/remediation,

Southfield, Mich.

Defendants' experts were Francis McLaughlin, microbiology, Farmington Hills, Mich.; and Edward Maloney, mold inspection/remediation, Davie, Fla.

Plaintiffs' Counsel

* Jennifer Grieco, Southfield, Mich.

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