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Annapolis homeowners get \$100k settlement in termite case

By: Anamika Roy Daily Record Legal Affairs Writer November 14, 2018



A photo of termite damage an Annapolis couple said they discovered after buying their home. (Submitted Photo)

An Annapolis couple reached a \$100,000 settlement with a Virginia-based pest control company after an inspector failed to catch a termite problem in a home before they purchased it.

In a lawsuit filed in Anne Arundel Circuit Court last year, the couple alleged PestNow, LLC made false representations that led to them buying a property they would not have purchased but for PestNow's "false representations" about the lack of termites in the home.

"They were very happy that they would now be able to fix the damage that they were not aware of when they bought the house," said attorney

Daniel W. Whitney, Jr. on Wednesday.

The lawsuit alleges plaintiffs Robert Ellison and Hillary Hill suffered economic damages due to the diminished value of the property, the costs of repairing the damage and emotional distress from the infestation in their home.

"They had to live with it for a while," Whitney said, adding that his clients are in the process of rebuilding their home using the settlement money.

The couple moved into the property in March 2017 after having had it inspected by PestNow, which said the house had not been treated previously for any termites, according to the lawsuit. Shortly after moving in, the Hills noticed "insects and insect remnants." A month later, the Hills called PestNow and set up a time for an additional inspection, the lawsuit states.

The couple called a second inspection company to get a second opinion. That inspector noted in a report that the home had "active termites," including in the interior and exterior walls, that would require \$30,000 worth of repairs on the nearly 100-year-old house.

Attorney for PestNow, LLC, Alexander Francuzenko of Cook Craig Francuzenko PLLC in Fairfax, Virginia, could not be reached for comment on Wednesday.

While \$30,000 is not a small number, the cost of termite damage can exceed the cost of the house in some cases, said Whitney of Whitney LLC in Towson. His firm has a niche practice for negligent wood-destroying insect inspections and termite damage

In Maryland, not all houses are required to have a wood-destroying insect inspection, though Whitney recommended everybody should have one done.

"These cases arise when a negligent inspection is performed, usually because the technician is untrained or in a hurry and they miss damage that they should find," he said.

Whitney's practice has been getting more phone calls this year regarding improper termite inspections, and the issue is a growing practice area for his firm.

"A lot of people are not aware of the legal rights they have when a termite inspection is poorly done," Whitney said. "Slowly we're creating the awareness and getting more phone calls about this."

Robert Ellison, et al. vs. PestNow LLC, et al.

Court: Anne Arundel County Circuit

Case No.: C-02-CV-17-002607

Proceeding: Settlement

Outcome: \$100,000

Dates:

Incident: Dec. 2016 – May 2017

Suit filed: Sept. 17, 2017

Settlement: Sept. 18, 2018

Plaintiffs' Attorneys: Daniel W. Whitney, Jr. of Whitney, LLP in Towson

Defendants' Attorneys: Alexander Francuzenko and Broderick Coleman Dunn of Cook Craig Francuzenko PLLC in Fairfax, Virginia

Counts: fraud, negligence, unfair or deceptive practices under the Maryland Consumer Protection Act

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