

Florida Jury Awards \$50 Million in Habitability/Mold Case

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A Florida jury awarded \$48,257,922 to a tenant who lived in an apartment with “toxic” mold for approximately one and a half years.ⁱ This verdict included \$35 million for past and future pain and suffering and \$10 million for future medical costs!ⁱⁱ While the defendants were not represented at trial, the award is a shot across the bow at what Nuclear Verdicts™ may look like post-pandemic.

Jurors Must Understand the Value of a Dollar

The plaintiffs’ bar is highly skilled in making 12 ordinary people forget what a dollar can buy. It is incredible that a jury would consider \$35 million a reasonable number for pain and suffering for one individual in a habitability/mold case. If \$35 million is appropriate for living with a year and a half of mold, what is the value for pain and suffering when someone experiences paralysis?

This is the reason it is important for defense attorneys to always give a number and explain that number, specifically for non-economic damages. To figure out a value on non-economic damages, Bob Tyson explains that defense attorneys must talk about the impact of money on the plaintiff’s life. How will the money the defense is asking the jury to award have a real and meaningful impact on the plaintiff’s life?ⁱⁱⁱ

In this case, the plaintiff was a renter in her 50s, and she worked as a home health aide.^{iv} How would a dollar impact her life? The defense bar can calculate this number by evaluating the plaintiff’s passions. For example, where does she go on vacation, and what is the value of that vacation? Counsel can then explain to a jury what the reasonable value is for a plaintiff to continue on with her life despite the effects of mold on her body.^v The jury should understand that \$790,000 a year for pain and suffering is unreasonable and unnecessary and more of a jackpot as opposed to fulfilling the purpose of the law, which is making the plaintiff whole.

Jurors are Angry with Landlords

The Landlords Are the Villains of 2021

Anger drives Nuclear Verdicts™.^{vi} As discussed in my previous article, Landlords and Tigers and Bears – Oh My! How Landlords are Becoming the Villains of COVID-19 and What They Can Do About It, landlords are villainized in this post-pandemic world. National news covers stories about eviction victims every week. Jurors may now see corporate landlords as the goons squeezing the working-class to collect back rent and other costs while tenants recover from the pandemic.

The Health Care Worker is the Protagonist

How many times over the past year have people thanked heroes on the front line of the COVID-19 fight? How many benefit concerts were held? How many were honored before sporting events and award ceremonies? This makes it easy for jurors to elevate these health care workers to hero status. In this case, the plaintiff is a home health aide—a front-line worker. Therefore, the jurors may have felt the need to protect their hero.

However, that does not mean the defendant cannot also be a hero. When personalizing the corporate defendant, the defense counsel must tell their client's story. They can show how the client helped its residents during COVID-19 and how they supported their community during hurricanes or other trying times. Counsel can point to the client's involvement with the community and acts of charity. They can show how the landlord acted reasonably, retained reputable companies, and worked with the plaintiffs (if the plaintiffs informed them of these issues). The defendant can be a hero too.

Takeaway

We cannot say this verdict does not count because the defendants did not have counsel. This jury thought \$48,257,922 would be justice for one plaintiff who lived with mold for a year and a half. Why would it be any different where there was no defense attorney to explain what a reasonable number was, take responsibility, or show their client as a hero? This award is proof defendants can no longer expect a jury to do what is “right” and fair. In the post-pandemic world, the defense bar will need to always fight for justice.