

PENNSYLVANIA JURY REJECTS EXPERT TESTIMONY AND CLAIM FOR PERSONAL INJURY
RESULTING FROM MOLD
Reported by Gordon & Rees, LLP

In *Traub v. Crawford & Company, et al.*, No. 1995-153-C-153 (Pa. Comm. Pls., Lehigh Cty.), plaintiffs, Mr. and Mrs. Traub, made a claim for storm damage in 1994 to their insurer, Great American Insurance Companies ("Great American"). Great American retained an independent adjuster with Crawford & Company ("Crawford") to assess the damage. The adjuster allegedly instructed the Traubs to perform minimal clean up and allow the house to dry naturally. The Traubs claimed that based on this advice, their home became contaminated by mold causing permanent respiratory and cognitive damage.

The Traubs settled their claims against Great American for \$1.4 million to cover the replacement value of the home and personal property in March 1995. The Traubs then filed suit against Great American, Crawford and named the individual adjuster for personal injuries. Great American settled with the Traubs for an undisclosed amount. The claim for negligence against Crawford and the individual adjuster went to trial in May, 2002.

Crawford challenged the scientific and medical sufficiency of plaintiffs' expert testimony regarding an alleged link between plaintiffs' mold exposure and impaired cognitive function. The court found that the testimony of well-known plaintiffs' experts, neuropsychologist, Wayne Gordon, Ph.D. and physician, Eckardt Johanning, M.D., passed the expert witness standards put forth in *Frye* regarding their credentials and substantive testimony leaving it to the jury to determine the weight of the evidence. This is one of the first trial courts to permit this type of expert testimony.

Dr. Johanning testified to the Traubs' alleged medical conditions, including Mr. Traub's Restrictive Airway Disease Syndrome (RADS), which he claims is related to mold exposure. Dr. Gordon testified to cognitive impairments. Both experts relied on peer reviewed literature and the methodology of clinical differential diagnosis for cognitive impairments from mold exposure.

Plaintiffs' alleged that Crawford and the named adjuster held themselves out as experts when giving the Traubs advice on the storm damage which allegedly resulting in the loss of their home and personal property due to mold damage. As such, the plaintiffs' claimed Crawford was responsible for their alleged physical injuries due to mold exposure.

Though the jury found Crawford and the adjuster negligent, the jury did not find a substantial connection between the their negligence and plaintiffs' injuries. The jury awarded the plaintiffs nothing in damages in their verdict rendered on July 3, 2002. In a separate matter, the subsequent purchasers of the Traubs' house also have a personal injury lawsuit pending for mold allegedly still existing in the house after the sale.

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