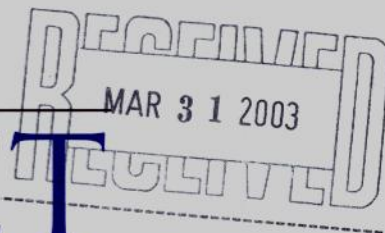


TEXAS BLUE SHEET

Reporting Verdicts & Settlements Since 1966

Vol. 3 Issue 12



March 24, 2003

CASES OF NOTE

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Worker called "The stupid old woman." **6**

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VERDICT OF THE WEEK

Don't Take Any Wooden Nickels

Patent for Coin-Accepting Device for Vending Machine Infringed

BY JOHN SCHNEIDER

A Houston area inventor who patented a device used in vending machines won a verdict from a federal court jury in Marshall that will keep him in quarters for many years.

FACTS: Philemon "Butch" Bruner, of Katy, had patented a device for separating and rejecting coins for coin operated machines. His company, Imonex Services Inc., Katy, made coin-validating equipment. Imonex successfully

marketed its products to several segments of the coin-operated industry, but had little success with the laundromat industry. Imonex learned that when Münzprüfer Deitmar Trenner GmbH, was allegedly infringing its patents. It sued Münzprüfer for infringement and several washer-and-dryer manufacturers for selling machines that included the infringing device. The defen-

dants contended that the patents were invalid, and not infringed, and that Imonex's claims were barred by laches.

INJURIES: Imonex sought an injunction against Münzprüfer and a reasonable royalty from the makers of the washers and dryers. Imonex sought double damages for willful infringement.

RESULT: The jury found the patents valid, found willful infringement by the defendants and awarded Imonex \$10,350,000 in damages.

To view the full report, turn to page 23

ASKED & ANSWERED

A Texas Court of Criminal Appeals recently held that the PBS documentary series 'Frontline' would not be allowed to videotape jury deliberations in a Houston capital murder case. The accused and the trial court judge had agreed to allow an unmanned camera in the jury room, but the district attorney appealed. What do you think about videotaping jury discussions?

Timothy K. Hall, Buzzell, Graham & Welsh, Macon, Georgia

You could argue that the camera would make jurors abandon their prejudices more often, under the theory that no one would want to be caught on camera taking a "politically incorrect" stance on some issue. However, you could also argue that anything that may restrict the free flow of communication

would be detrimental, and some jurors may be camera-shy or intimidated and therefore would not participate actively in the deliberations. Overall, my vote would be to keep it out. We should not force jurors to become TV stars.

James C. McMillin, McAfee & Taft, Oklahoma City

It is a terrible idea. Jurors have to be convinced that what they say is confidential among the group that is deliberating and while it is perfectly acceptable to have mock juries that do sit for videotape so that you can get a sense to what will play to a jury and what a jury will respond to, the actual deliberations must be confidential.

Continued on page 5

PREMISES LIABILITY**Housing Complex — Toxic Torts****Mold in 46 Apartments Blamed for Tenants' Misery****MEDIATED SETTLEMENT****Confidential****CASE**

Carman and Laura Banda, Individually and as next friends of Laura Banda, a minor v. Fath MVS Company, Fath Properties, Ltd. Partnership, Fath Princeton Court Ltd. Partnership, Fath Melody/Villas Serenas Ltd., Partnership and Helen Funk, No. DVO1-03896-E

COURT

Dallas County District Court, 101st, TX

JUDGE

Jay Patterson

NEUTRAL(S)

Louis Webster, Jr.

DATE

3/8/2003

PLAINTIFF**ATTORNEY(S)**

James A. Gibson; Smith & Gibson; Houston, TX

DEFENSE**ATTORNEY(S)**

David A. Miller; Miller Mentzer MacDonald; Dallas, TX

nausea, cramps, dizziness and fatigue.

RESULT The defendants received a temporary injunction requiring the plaintiffs to take action to prevent the accumulation of mold in their respective apartments. Thereafter, the parties reached a settlement on confidential terms.

PLAINTIFF**EXPERT(S)**

David C. Strauss; indoor air quality; Dallas, TX
Mike Hubbard; indoor air quality; Dallas, TX

DEFENSE**EXPERT(S)**

None reported

Kirk Sowell

FACTS Tenants of 46 apartment units at the Princeton Court Apartments in Dallas, represented by plaintiffs Carmen and Laura Banda, filed suit against the owners and managers of the property, the various Fath defendants and Helen Funk, for negligence, fraud, conspiracy, negligent misrepresentation, and breach of the implied warranty of habitability for allegedly allowing for the growth of toxic mold at the complex.

The plaintiffs alleged that the defendants allowed mold infestations to accumulate to toxic levels in private and common areas of the complex. The plaintiffs alleged that the defendants had been aware that there was a mold problem as early as May 2000, but rather than taking proper steps to decontaminate the property and remove the mold, they instructed their employees to "paint it over" or "cover it up." The plaintiffs contend that this conduct, and the lack of proper corrective conduct, allowed the mold to accumulate throughout the complex, negatively affecting residents, animals and property.

The defendants argued that the plaintiffs were required to keep their respective apartments clean in order to prevent the accumulation of mold, and made a motion for a temporary injunction to this effect.

INJURIES The plaintiffs claimed damages of \$3.4 million for both property damage and physical suffering caused by mold toxicity including memory loss, asthmatic conditions, respiratory and bronchial disorders, nosebleeds, allergies, red-eye,