

County found negligent

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By ANGELA BRANDT Independent Record helenair.com | Posted: Thursday, September 23, 2010 12:00 am | (28) Comments

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Angela Brandt Independent Record Josephine Slack and her two daughters listen to closing statements in the family's lawsuit against Lewis and Clark County, the Landmark Company and a real estate agent for allegedly being negligent in not warning the family the home they bought was previously the site of a methamphetamine lab.



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A jury awarded a family \$564,000 in damages Wednesday afternoon after hearing how the family had

unknowingly bought a Helena Valley house that previously was the site of a methamphetamine lab.

The jury found Lewis and Clark County negligent and 100 percent at fault because the family was not warned of the dangers involved with the home.

Josephine and Stewart Slack bought a Mill Road home in October 2005. After living in the house with their three young children for two years, the couple was informed by the state Department of Environment Quality in November 2007 that their residence had been the site of a clandestine meth lab that law enforcement officials busted in April 2002. The Slacks then had their home tested and found it had high levels of methamphetamine, according to court documents.

“I am grateful that some responsibility has been agreed upon. The county should have done more to prevent this from happening to our family,” Josephine Slack said after the verdict was read.

“I feel that financially justice has been served,” she added. “I hope that no other family has to go through what we went through.”

The jury awarded the Slacks \$300,000 for their emotional distress. Other damages awarded included \$146,000 for damage to the home, \$60,000 for the contents of the home and \$45,000 for loss of use of the damaged property.

The Slacks filed a lawsuit against Lewis and Clark County, real estate agent Mitzi Grover and the Landmark Company in February 2008. Josephine and Stewart filed individually and on behalf of their children.

The jury found that Grover was not negligent or deceptive.

“I followed real estate regulations to a ‘T’ and the jury saw the justice in that,” Grover said.

During two days of testimony, the jury was told about how the Slacks lived in the home unaware that they were being exposed to toxic chemicals and the house was unfit for human habitation.

The Slacks have spent the last three years renting homes and staying with family members.

Josephine Slack said her family will let the verdict sink in and then figure out their plans.

Richard Larson, attorney for the county, argued that property owners must now disclose any former meth activity, but that was not established until October 2005 when the DEQ started an online list of contaminated properties. The statute did not note whether properties would be added retroactively to the list.

There was no database at the time, so when DEQ would find a contaminated property, it would then check with the Lewis and Clark County Attorney’s Office to verify with arrest reports or other court documents, he said.

The only way the Slack’s home would have made it to the list sooner than 2007 would have been “a combination of enormous luck and superhuman effort,” according to Larson.

“The parties in this case hold Lewis and Clark County to an unreasonable standard,” he said.

County Attorney Leo Gallagher testified that it was not feasible to go back and pull the files on every single meth lab that was found historically.

Trevor Uffelman, the Slack's attorney, argued during closing statements that the county was negligent in failing to report to DEQ until 2007 that the house was uninhabitable because it was home to a meth lab. If the county had reported it then, it would have been put on a website for potential buyers to see.

"What the county did here was nothing, and that's the problem," he said. "The results for the Slack family have been catastrophic."

Uffelman added that the chemicals used to make meth can cause cancer and behavior problems among a long list of other ailments.

"They've lost their peace of mind," he said, adding that every time one of the children has a rash or a sniffle, the Slacks fear it's the beginning of something larger.

To read the relevant statutes, go to http://data.opi.mt.gov/bills/mca_toc/75_10_13.htm

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