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## COURTROOM NEWS

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### **N.C. Couple Sues Builder, Says It Knowingly Used Substandard Drywall**

RALEIGH, N.C. — A North Carolina couple has sued the company that built their home in 2004, alleging that the developer made a conscious decision to use substandard, Chinese-manufactured drywall in the construction of their home. *Flannigan v. Stafford Custom Homes, Inc.*, No. 09CV006759 (N.C. Cir. Ct., Wake Cty.).

Mary and Daniel Flannigan contend in an April 6 complaint filed in Wake County Superior Court that Stafford Custom Homes Inc. was aware that the drywall they installed in the Flannigan's unit was defective, yet warranted that the home was contaminant-free when it was sold.

The suit also alleges that the Flannigans were concerned about a "rotten-egg"-like smell in the home prior to purchasing the residence, but that a representative from Stafford assured them it was caused by a hot water heater that had been idling for about a year.

Stafford sold the Flannigans their home in April 2004 and entered into a contract which explicitly stated that the home "shall not be in need of immediate repair" and that no existing environmental contamination was affecting the property. The suit also stated that the Flannigans accepted an explanation by Stafford that the sulphur or rotten-egg smell that permeated the house when they bought it was caused by something other than Chinese drywall.

However, in May 2007, evaporator coils in the HVAC systems of the Flannigan's home began corroding and needed replacement. Additionally, the Flannigans suffered significant physical ailments, including severe allergies and chemical sensitivities, headaches and frequent bouts with pneumonia, the complaint alleges.

The Flannigans argue that the damaged property and health problems all resulted from Chinese drywall installed in their home.

"Plaintiffs are informed and believe it was foreseeable that the drywall installed in the residence would harm the health of the individuals living in the Residence and would cause damage to the home structure and mechanical systems, such as copper piping, air conditioner coils, washing machine coils and electrical wiring, as well as other personal property," the lawsuit states. "Stafford knew or reasonably should have known that the drywall would cause the problems described above, but failed to disclose these facts to Plaintiffs."

The six-count complaint seeks compensation for diminution in the property value of the plaintiffs' residence, removal and replacement of the defective drywall, the cost to reconstruct the plaintiffs' residence, repair and replacement costs associated with damaged property in the residence, damages

for personal injuries and medical expenses due to exposure to the drywall.

The Flannigans are represented by Daniel K. Bryson and Scott Harris of Lewis & Roberts in Raleigh, N.C.; and Joel R. Rhine of Lea Rhine Rosbrugh & Chleborowicz in Wilmington, N.C.

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