

**CONTRACTS****Consumer Fraud — Breach of Lease — Security Deposit****Renters Were Misled on Whether House in Flood Plain****VERDICT** \$110,669

CASE William Nordlund and Elizabeth Nordlund v. Alexander Coccoziello v. Jahn Real Estate, No. BER-L-9526-99

COURT Bergen County Superior Court, NJ

JUDGE Joseph R. Rosa

DATE 6/11/2002

PLAINTIFF

ATTORNEY(S) Robert S. Dowd, Jr.; Sternlieb & Dowd; Hackensack, NJ

DEFENSE

ATTORNEY(S) Peter W. Till; Law Offices of Peter W. Till; Springfield, NJ

FACTS Plaintiffs William and Elizabeth Nordlund rented a house in Saddle River from Alexander Coccoziello. Coccoziello represented to the Nordlunds that the house was not located in a flood plain. Based on this representation, the Nordlunds secured only renters' insurance, and not flood insurance, for their personal property located in the rental.

The house was, in fact, located in a flood plain and, on Sept. 16, 1999, the house was flooded as a result of Hurricane Floyd. A substantial amount of the Nordlund's personal property was damaged or destroyed.

The Nordlunds claimed that Coccoziello then breached the lease agreement by failing to make repairs to the rental house within a reasonable period of time and by failing to allow plaintiffs a partial abatement of the rent during the time when the house remained damaged. The Nordlunds also claimed that Coccoziello sought to evict them for nonpayment of rent after the flood.

The Nordlunds sued Coccoziello for fraud, fraudulent concealment, fraudulent inducement, violation of the New Jersey Consumer Fraud Act, breach of lease agreement and a violation of the New Jersey Security Deposit Act. Coccoziello filed a counterclaim for nonpayment of rent and a third-party complaint against Jahn Real Estate, the real estate broker involved in the rental of the house, claiming that the broker was negligent in conveying information to the Nordlunds about whether or not the house was located in a flood plain.

INJURIES The Nordlund's expert appraiser valued the personal property losses sustained by the Nordlund's at between \$93,000 and \$113,000. William Nordlund's testimony valued the personal property losses sustained by the Nordlunds between \$88,044 and \$143,028. The Nordlunds also sought rent abatement for a portion of the rent from the September 1999 date of the flood until they vacated the house on Dec. 15, 2000,

and sought the return of the balance of their \$7,750 security deposit, as well as \$5,569.46 in moving costs. The Nordlunds also sought an unspecified amount for emotional distress.

Coccoziello filed counterclaims seeking rent in the amount of \$3,750 per month for the period between October 1999 and January 2000.

RESULT The jury unanimously found that Coccoziello had committed fraud, fraudulent inducement, fraudulent concealment and that he had violated the New Jersey Consumer Fraud Act. The jury also found third-party defendant Jahn Real Estate not negligent or liable for any of Coccoziello's damages.

The jury made a supplemental finding that Coccoziello's conduct was willful, wanton and malicious but declined to award punitive damages.

The trial court entered judgment on Jan. 13, 2003, in the net amount of \$301,224.26. The court arrived at this figure by trebling \$110,669.46 in compensatory damages, as found by the jury, and then deducting the \$117,530.76 the Nordlund's received from State Farm, their insurance company for their personal property losses, resulting in a net judgment of \$214,477.62 under the New Jersey Consumer Fraud Act. In addition to this amount, the court entered judgment against Coccoziello for \$2,500 for the return of the Nordlund's security deposit and \$84,246.64 for plaintiffs' attorney fees, filing fees and costs. The net judgment was then \$301,224.26.

E. NORDLUND \$105,000 property damage
\$5,669 moving expenses
\$110,669

ATTORNEY FEES \$84,247

DEMAND After they received a payment from State Farm for \$118,530.76 for personal property damage, the Nordlunds sought to settle for \$35,000.

OFFER \$10,000 pretrial offer

TRIAL DETAILS Jury Deliberations: 3 hours
Jury Poll: 6-0

PLAINTIFF
EXPERT(S) Leon Castner; appraisal; Branchville, NJ

DEFENSE
EXPERT(S) None reported

INSURER(S) Chubb for Coccoziello

Nicholas Upmeyer