

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

KARI KILIAN, )  
)  
Plaintiff, ) CIV 02-1272-PHX-FJM  
)  
vs. ) Phoenix, Arizona  
) June 22, 2004  
EQUITY RESIDENTIAL TRUST, ) 9:32 a.m.  
et al., )  
)  
Defendants. )

BEFORE: THE HONORABLE FREDERICK J. MARTONE, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TRIAL TO THE COURT

VOLUME V

(Pages 749 through 950, inclusive.)

**APPEARANCES:**

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Proceedings Reported by Stenographic Court Reporter  
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208	November 2000 California Department of Health Services Bulletin Regarding Serology Testing	801
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1 Q. And statistically significant is a term used by  
2 statisticians to describe certain types of findings, correct?

3 A. I'll say scientists. We all use it. I don't call myself  
4 a statistician, but we understand what that means, yes.

5 Q. And it means that the findings are outside of the 95  
6 percent confidence level?

7 A. In general, depending what type of testing you're doing.

8 I think that the first approximation is fair.

9 Q. In terms of the paper published by the American College of  
10 Occupational and Environmental Medicine, there was a section  
11 on toxicity in that paper, correct?

12 A. Correct.

13 Q. The toxicity section of the paper deals only with  
14 respiratory effects, correct?

15 A. It only reports the respiratory effects as the most  
16 sensitive indicator it was felt to be.

17 Q. Well, there is no discussion anywhere in the paper about  
18 neurotoxic effects, correct?

19 A. That is correct. It was felt to be a less sensitive  
20 indicator, as was the liver, for example.

21 Q. The paper on the toxicity section only discusses six  
22 research studies, correct?

23 A. I'll agree with you. We've been through this. It's  
24 probably six.

25 Q. There's two by Creasia, two by Rao, and two by Nikulin,

Q. You mentioned that mold cannot cause immunodeficiency?

A. Correct.

Q. What about immune suppression? Can molds and mycotoxins cause immune suppression?

A. Maybe you can help me what you mean by immune suppression versus immune deficiency.

Q. Well, maybe you can help me understand the difference.

A. Well, when I say immune deficiency, I mean a state in which the person has a I'll call it relatively permanent condition. That's an immune deficiency state.

If you said immunosuppression, I think you said, Mr. Langerman, I would say can it move your immune system below where it ought to be working?

Mold, no, not -- I would call mold not in the sense of exposure to molds themselves, no.

Mycotoxins, yes. Given enough mycotoxins, it certainly can lower your immune system, and when the effects wear off, it will return. In fact, that's well established. It's absolutely dose dependent.

Q. In the National Academy of Science report, there is a list of various molds and mycotoxins that are -- or mycotoxins produced by molds that are identified as having an immunosuppressive effect.

A. Sure, absolutely.

Q. And that would include mycotoxins produced by various

1 species of Aspergillus, correct?

2 A. I don't recall the list. I'll trust you to represent the  
3 list correctly.

4 Q. And it also includes mycotoxins produced by various  
5 species of Penicillium, correct?

6 A. If that's on the list.

7 Q. Do you have any reason to dispute the report if --

8 A. No. There's a whole host --

9 Q. Sir, can you wait until I finish my question?

10 A. Sorry.

11 Q. If the researchers on the panel appointed by the National  
12 Academy of Sciences indicated that various species of  
13 Penicillium produce immunosuppressant mycotoxins, you would  
14 have no reason to disagree with that finding?

15 A. I would have no reason to disagree that Penicillium  
16 species can make molds that have immunosuppressive effects,  
17 none whatsoever, given the right dose.

18 Q. And also Stachybotrys is noted as producing mycotoxins,  
19 which have immune suppression and immune modulating effects?

20 A. Sure.

21 Q. You told the Judge that you ruled out any immunological  
22 disease for Ms. Kilian and that her symptoms and impairments  
23 were caused by, in your opinion, somatization and conversion  
24 disorders; is that correct?

25 A. Sure.