

COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

TRICIA MASON, et al.,  
Plaintiffs-Appellants,

v.

WASATCH PROP. MGMT., INC., et  
al.

Defendants-Appellees

2 CA-CV No. 2008-0162  
2 CA-CV No. 2008-0165

KAITLYN MORRIS, et al.,  
Plaintiffs-Appellants,

v.

WASATCH PROP. MGMT., INC., et  
al.

Defendants-Appellees

Cause Nos. C20035581  
consolidated with  
C20041766;  
C20024299 consolidated  
with  
C20024542

APRIL ABAD, et al., ALICIA  
STEWART, et al.

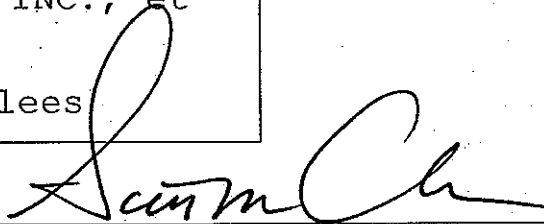
Plaintiffs-Appellants,

v.

WASATCH PROP. MGMT., INC., et  
al.

Defendants-Appellees

**BRIEF OF AMICUS CURIAE**  
**NATIONAL APARTMENT**  
**ASSOCIATION**



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there is no generally accepted scientific evidence establishing a causal link between exposure to mold and the adverse health effects alleged by the plaintiffs. The issue of causation for Plaintiffs-Appellants' alleged injuries<sup>1</sup> has been studied by several scientific institutions, all of which have concluded there is no scientific basis for establishing a causal link between exposure to mold and the development of negative health impacts in individuals.

Some of the leading scientific institutions that have published statements or studies to this effect include the Institute of Medicine of the National Academy of Sciences, the American Society for Microbiology, the Centers for Disease Control and Prevention, the American Industrial Hygiene Association, the National Institute of Occupational Safety and Health, and the American College of Allergy, Asthma, and Immunology. In light of these scientific

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<sup>1</sup> Plaintiffs-Appellants alleged injuries include: a disabled, developmentally delayed child; permanent neurological deficiencies; headaches; memory loss; long term asthma; long term respiratory problems; gastrointestinal problems; a variety of other short term respiratory problems, and death of two infants.

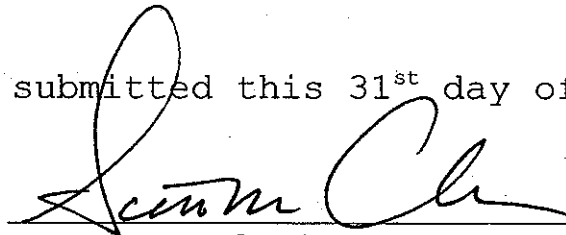
that exposure to mycotoxins (which can sometimes be produced by mold) is "causally related to symptoms or illness among building occupants." *Id.* at p. 647.

In a report entitled, *A Scientific View of the Health Effects of Mold*, a panel of scientists, including toxicologists and industrial hygienists stated that years of intense study have failed to produce any causal connection between exposure to indoor mold and adverse health effects. U.S. Chamber of Commerce, *A Scientific View of the Health Effects of Mold* (2003) at p. 64 and p. 65. The report also concludes that in other than individuals with severely impaired immune systems, indoor mold is not a cause of infections, and "current scientific evidence does not support the idea that human health has been adversely affected by inhaled mold toxins in home, school, or office environments." *Id.* at p. 65. In fact, when speaking of their report, the authors note that "science has confirmed common sense" since mold is not some rare, exotic material but is everywhere, making up twenty-five (25) percent of the earth's biomass. The

able to identify and retain witnesses with training in science to support their claims does not automatically result in the admissibility of that testimony. The trial court appropriately focused upon whether their theories had gained acceptance within the scientific, and not the legal communities. *State of Arizona v. Court of Appeals*, 197 Ariz. 79, 3 P.3d 999 (1999). In this case, they have not.

We urge the Court to affirm the trial court ruling below.

Respectfully submitted this 31<sup>st</sup> day of August 2009.



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**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the Brief of Amicus Curiae of the National Apartment Association, was served on the parties hereto by Scott Clark on 08/31/2009 at the following addresses:

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