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Irvine Co. sued for alleged toxic mold in its luxury Newport Bluffs apartments

Former company employees allege the firm covered up serious mold problems and made only cosmetic repairs



Catherine Duboc and attorney Alan Bell stand outside the Newport Bluffs apartment complex in Newport Beach, CA on Monday, Dec. 18, 2023. Duboc is one of 17 former tenants who are suing the Irvine Co. over alleged mold exposure. (Photo by Paul Bersebach, Orange County Register/SCNG)

The scars on Catherine Duboc's face and hands are sad souvenirs of her days living at the upscale Newport Bluffs apartment homes, where she contends exposure to toxic mold left her with angry, red sores all over her body.

But more troubling to Duboc, who was 27 at the time of her claimed exposure in 2014, is the alleged injury to her brain, leaving her mentally foggy and unable to work.

"The Bluffs was in the best location. It was luxury and it represented, to me, status," said Duboc, who worked in pharmaceutical sales. "I finally could afford to live there. Little did I know it would be the thing to ruin my life."

All the while, the Irvine Co., which owns the Newport Beach apartments where Duboc paid \$2,800 a month to live, allegedly did not tell tenants their units were tainted with mold. Duboc is one of 17 former tenants suing the Irvine Co. over alleged mold exposure at the Tuscan-influenced, 1,052-unit apartment complex, which features three resort-style pools and in-home washers and dryers. Monthly rents there range from \$2,865 to \$7,670, according to Apartments.com.

The lawsuit's claims are backed by former Irvine Co. employees, who allege in litigation and testimony that the firm's practice was to keep mold problems hidden from tenants and to make only cosmetic repairs.

"It's all about profits over people. To (the Irvine Co.), to save a buck is more important than to save a life, in my opinion," said attorney Alan Bell, who represents the former tenants. Bell is a Florida-licensed attorney who specializes in mold exposure and works with local counsel on cases in several states.

In the Newport Bluffs case, he is working with attorneys Benjamin Sampson and Joshua Bordin-Wosk.

The former tenants allege in their lawsuit that the Irvine Co. misrepresented to them that mold was not inside their apartments, that any water intrusion issues were fixed and that construction work at Newport Bluffs was purely for aesthetic reasons.

The Irvine Co. — one of the largest real estate developers in the nation, with properties spanning apartments and houses as well as retail and office use — denied the Newport Bluffs allegations, saying there is no evidence of elevated



A photo provided by attorney Alan Bell shows sores on Catherine Duboc's body, allegedly from exposure to mold. Former tenants are suing the Irvine Co. over alleged mold exposure at the Newport Bluffs apartment complex. (Photo courtesy Alan Bell)

exposure to mold.

In a written statement, Jennifer Line, regional vice president of Irvine Company Apartment Communities, described as "demonstrably false" any contention that the firm has a policy of ignoring or covering up mold or any other problems at its properties.

"Irvine Company Apartment Communities has a long track record of master planning and operating best-in-class communities throughout coastal California with a proven history of making enhancements that provide an unmatched living experience," Line said. "We are committed to the health and safety

of our residents and have a policy of promptly responding to water intrusion issues."

Health problems

Nevertheless, some former tenants at Newport Bluffs claim they suffered health problems that prevented them from working. Some allegedly suffered weight and muscle loss, skin lesions, breathing problems, immune problems and brain injury. Avid runners could not get out of bed, according to Bell.

"Water damage exposure wrecks havoc on the entire body," said Sunny Raleigh, an Irvine doctor who specializes in neuromuscular medicine and environmental expo-

sure. "If you live in mold and continue to get exposure, your immune system doesn't stand a chance." Raleigh has treated nearly all the former tenants in the Newport Bluffs lawsuit and described them as "profoundly affected."

She said abating mold involves more than just painting over the problem. "You put up some nice white paint and have a pretty kitchen and ... they look really nice. But it's what is behind the walls that's what's getting into

the HVAC and into the carpets," Raleigh said.

Evidence suggests the Irvine Co. had long known of water damage and potential mold at Newport Bluffs and had a pattern of not disclosing mold problems at other apartment complexes that it owned. One of those complexes was the posh beachfront site 1221 Ocean Avenue in Santa Monica, linked to such celebrities as Britney Spears and Larry David.

At Newport Bluffs, the Irvine Co. in 2010 sued Western National Construction — which built a portion of the complex — for water intrusion

and damage to apartments. Allegations surfaced in legal proceedings that rain was getting into some apartments from outside walkways and, in some cases, through fireplaces.

The Irvine Co. settled its litigation against Western National and contractors for \$15.5 million in 2014. Line said the company spent \$28 million to resolve and repair construction defects and water intrusion issues at Newport Bluffs.

Insider confirms problem

The extent of the mold problem at Newport Bluffs was confirmed by Marvin Matamoros, who served as maintenance supervisor at the complex from 2013 to 2014. Matamoros, who had a staff of 17, testified in a deposition that he found extensive mold in some apartments and repeatedly asked his bosses to relocate the tenants and properly remediate the problem. He said he was repeatedly rebuffed.

Matamoros said he was not allowed to take pictures of the mold, not allowed to buy his workers protective gear to shield them from the effects of the mold and not allowed to tell residents about the presence of mold in their apartments.

He and his workers were not even allowed to use the word “mold” while talking to each other on two-way radios, Matamoros said under oath.

“You say ‘stuff,’ or you say ‘things.’ Never, never, never say, ‘We got mold,’ ” Matamoros said.

But some apartments did have mold, and a lot of it, according to the maintenance supervisor, who said he learned about mold

remediation in a two-day training session with a previous employer. Matamoros said he confirmed the presence of mold at Newport Bluffs using his work experience as well as \$5 self-test kits purchased from Home Depot.

“It upset me because the way they treated it like it was just any ordinary leak,” Matamoros said. “And I would tell them there is a lot of mold behind this wall. There is a lot of moisture in the closet, and the mold is already on the carpet. It’s on the boxes. It’s on their clothes, especially leather clothes or shoes. That stuff would grow on it, like, overnight. And I would tell them there is a lot of damage in there.”



Catherine Duboc alleges sores on her hands, face and body were the result of toxic mold from the Newport Bluffs apartment complex in Newport Beach, CA. Duboc is one of 17 former tenants who are suing the Irvine Co. over alleged mold exposure. (Photo by Paul Bersebach, Orange County Register/SCNG)

‘What you’re doing is wrong’

Always, the response, according to Matamoros, was that there wasn’t enough money in the budget to put affected tenants in a hotel and properly remove the mold, which he said required cutting out and replacing the drywall. He said he was told to make do without protective gear, dehumidifiers to remove the moisture or special bags in which to put the tainted material. Basically, all they had was “a broom and a dustpan,” Matamoros said.

“I started telling them what you’re

doing is wrong. And I’m not going to take part in your wrongdoings because I will be liable as well,” Matamoros said under oath. “So there were days where they would come in the office and threaten me to terminate me if I was to tell the residents what was going on.”

Matamoros said he tried to remediate some apartments using whatever materials he and his crew had on hand or could borrow. He alleged the Irvine Co. hired some temporary laborers untrained in mold removal to “wipe everything down” and remove some boxes. But some of those workers stopped coming because they, too, began feeling sick, Matamoros said.

Toward the end of Matamoros’ tenure at Newport Bluffs, Western National Construction began to do more extensive remediation, using protective gear. Bell said another firm also was hired to work on the mold problem, but it went bankrupt before the job was done.

Matamoros said the Irvine Co. tried to mollify residents who complained by giving them free movie tickets and a large discount on their rent.

He said he told his bosses: “What we’re doing here we’re practically committing a crime because we’re not telling the residents how harmful this is. And their response was always the same. ‘We’ll treat it. We need some time. There’s no budget for that.’”

Line, with the Irvine Co., said there was no evidence supporting Matamoros’ assertions.

Matamoros lived on the premises and was sued for unlawful detainer by Newport Bluffs in 2014 in an attempt to evict him. According to court records, he was ordered to pay \$7,174 in back rent and dam-

ages. Records show he had been sued for unlawful detainer at least once before by another apartment complex.

Warnings from another whistleblower

Matamoros wasn't the only Irvine Co. employee unhappy with the firm's response to alleged mold at its apartments.

Former company paralegal Nicole Osborne said in a wide-ranging, 2018 whistleblower lawsuit that the Irvine Co. took legal action against its general contractors for damage caused by water intrusion and other structural issues at its properties. But even after the company received settlement payments or insurance proceeds, it spent less on repairs than it received through settlements and would routinely fail to fix the problems that were meant to be addressed, according to the suit.

Osborne alleged in her lawsuit that she told her supervisors that such practice was potentially fraudulent and warned that mold could subject Irvine Co. tenants to serious health risks.

"Despite her warnings, Irvine Company took no action to change its practices," the lawsuit alleges. Former Irvine Co. General Counsel Clay Halvorsen "told Osborne that the mold exposure did not make the residents sick and that the residents were just complainers who are overreacting and looking for a handout," the suit alleged.

Osborne claimed she was forced out of her job with the Irvine Co. as well as from subsequent employment with a company contractor. She reached a private settlement with the Irvine Co. in her lawsuit, according to Bell.

Line said Osborne's allegations were without merit.

"Ms. Osborne made many false claims about the Company and her former coworkers after she left our employment in October 2015," Line said.

Issues in Santa Monica
However, similar allegations surfaced in 2014 from two other Irvine Co. whistleblowers dealing with a mold infestation at a high-end apartment complex previously owned by the firm in Santa Monica. The beachfront complex, called 1221 Ocean Avenue, was sold by the Irvine Co. in 2022 for a record \$330 million, according to The Real Deal real estate news site.



A photo provided by attorney Alan Bell allegedly shows mold at the Newport Bluffs apartment complex in Newport Beach, CA. Former tenants are suing the Irvine Co. over alleged mold exposure at the complex. (Photo courtesy Alan Bell)

A year earlier, property manager Stephanie Van de Motter was awarded \$3.9 million and business manager Sally Tillotson \$2.9 million for their whistleblower suit. They contend they lost their jobs after disclosing to the city of Santa Monica the water intrusion at the Ocean Avenue complex and that the Irvine Co. was making repairs without required local permits.

According to the arbitration judgment, a private environmental hygiene firm was brought to the Santa Monica apartments to check for water intrusion and mold. During the 2013 inspections, residents were told that management was

just checking air filters and smoke alarms.

Van de Motter and Tillotson were tasked with distracting residents while inspectors searched for potential water intrusion and mold, primarily in bathrooms. Results of the inspections, which revealed significant water intrusion and mold, were not shared with the residents, said the judgment, which recounted the whistleblowers' testimony. Mold remediation apparently began on vacant units, not on ones occupied by tenants, according to the judgment.

Van de Motter's supervisors concluded that seeking city permits for repair work would slow down a planned property improvement project, she testified. In 2014, Van de Motter and Tillotson blew the whistle in a letter to Santa Monica officials.

"As soon as Ms. Van de Motter began complaining about company misconduct, both internally within the company and externally with the city of Santa Monica, she was targeted with a series of adverse employment actions that escalated into truly intolerable, overwhelming working conditions such that a reasonable person would

have no reasonable alternative except to quit," said the arbitration ruling by retired Judge Charles W. McCoy.

Tillotson also was found to have been forced out.

Van de Motter, in an email Wednesday, Dec. 20, said she made the right decision in calling out the Irvine Co., even though she lost her career by doing so.

"As I live my life every day, it is constantly reinforced to me how crucial it was for me to report The Irvine Company to the authorities, as well as to share my story with the public," she wrote.

Line, in a written statement, said the actions taken by Irvine Co. officials concerning the Santa Monica property nearly a decade ago were in violation of the firm's policies.

A new management team, including a new president of Irvine Co.'s Apartment Division, oversaw the remodel and modernization of the property, which was ultimately sold.

Besides the apartments in Newport Beach and Santa Monica, tenants in another Irvine Co. complex — Antivo at Los Olivos in Irvine — sued the firm in May.

Tenants Andrew Navarro and a pregnant Cassandra Vowels contend that the Irvine Co. failed to warn them of hazardous conditions, including potential mold, at their apartment. However, Line said, once Navarro and Vowels reported water intrusion, they were relocated and the unit was remediated, according to the company's policy.

Another former tenant, Nicholas Yavelak, received a jury award of \$423,036 in July after suing Antivo at Los Olivos for negligence pertaining to mold. Line responded that the jury did not specifically find that the company failed to disclose the presence of mold and the case is being appealed.

Attorney Bell said the alleged mold problem at Newport Bluffs should have been remediated long ago.

"In my opinion, this became a horrific and heart-wrenching situation that could have been prevented, it was tragic," he said.

As for Catherine Duboc, she said the sores have started to heal, but her immune system is still compromised.

"I'm better than I was," she said in a recent interview. "But I'm not normal — any stressor that would come my way just wipes me out."

(Staff writer Sean Emery contributed to this report.)

Link to Original Article

<https://www.ocregister.com/2023/12/21/irvine-co-sued-for-alleged-toxic-mold-in-its-luxury-newport-bluffs-apartments/?clearUserState=true>

Alan Bell's Official Website

www.alanbell.me