

Dougherty vs. Bauer Development Co.

Case No. EAC 74552

Verdict Date: September 19, 1990

TOPIC: General Negligence

RESULT: \$111,200 (verdict)

INJURY: Emotional distress

SPECIALS: Damaged home and lot because of unstable soil and shallow ground water.

AREA: Pomona, CA **JUDGE:** Hon. William McVittie - Dept. H

PLAINTIFF ATTORNEY: Alexander Robertson, IV (Negele, Knopfler, Pierson & Robertson), Universal City

DEFENDANT ATTORNEY: Carl R. Stevens (Tuverson & Hillyard), Newport Beach

FACTS: On 3-4-81, the Plaintiffs purchased a 1700 sq. foot home in Phillips Ranch, from Bauer Development Co., part of a 300 unit development in Pomona. In 1987, the Plaintiffs started noticing structural damage to their home. Cracked walls, shallow ground water and an exterior wall that had not been stuccoed behind a planter box. There was also a one foot sink hole which continually opened up in the pavement in front of their home.

PLAINTIFF CLAIMED that Defendants had constructed their home on an unstable and highly expansive soil with a high ground water table. The construction of the home did not comply with minimum structural and seismic requirements of the Uniform Building Code. Plaintiffs were fraudulently induced to purchase the lot by promising it was not on filled ground.

DEFENDANT admitted that there were structural defects in a uncompleted shear wall and improper fire resistance in a garage wall. However all other alleged defects were denied. Bauer denied any intent to defraud.

INSURANCE COMPANY: State Farm Fire & Casualty - Argonaut

OFFER: \$20,000 **DEMAND:** \$150,000

TRIAL TIME: 8 days **JURY TIME:** 3 ½ days **POLL:** 9-3

Verdictum Juris No. 90-125B