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Mold Exposure Class Action

David M. Moragas

On September 17, 2012, [David M. Moragas](#) successfully argued before Chief Judge Brian A. Jackson in the United States District Court for the Middle District of Louisiana, in a mold case against a hotel, a general contractor, and a subcontractor that had been hired to perform repair work at a hotel that sustained damage following Hurricane Gustav. Mr. Moragas represented the general contractor. Following removal of the case pursuant to the Class Action Fairness Act the plaintiffs sought to represent a class of similarly situated persons who allegedly suffered from exposure to toxic mold in the hotel.

After successfully defeating the plaintiffs' Motion to Remand, Mr. Moragas participated in class discovery in order to defeat the plaintiffs' attempt to certify a class action. Judge Jackson denied the plaintiffs' motion for class certification, agreeing with the defense's position that the plaintiffs had failed to satisfy any of the requirements of the Federal Rules of Civil Procedure 23. Specifically, the judge found that the proposed class representatives failed to prove the numerosity and commonality requirements; they failed to show that a class action was superior to other available methods for the fair and efficient adjudication of the controversy, and they failed to show that individual issues of causation and damages predominated over any common issues of liability that could be tried on a class-wide basis.

Judge Jackson also granted summary judgment and dismissed the contractor defendants from the litigation, agreeing with defense counsel's arguments that the plaintiffs were unable to establish a single element of the duty-risk analysis.