

Subject: Bed Bug Class Action Lawsuit: From the November 11 Des Moines Register

Judge allows class action lawsuit in apartment bedbug case

Residents of two buildings are suing their landlord

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JEFF ECKHOFF

A lawsuit alleging that managers of two Des Moines apartment buildings for the elderly and disabled turned a blind eye to a growing bedbug infestation for more than two years will now be allowed to proceed as a class action, a Polk County judge ruled Thursday.

Polk County Senior Judge Joel Novak certified the class in a 27-page ruling that's expected to eventually spark new settlement talks between residents and the owners of Elsie Mason Manor and Ligutti Towers.

Lawyers for roughly 300 current and former residents of the low-income apartment buildings first filed the lawsuit in March 2010 seeking money for back rent, lost property and other hardships because of a bedbug problem stretching back to late 2007.

Residents at the time complained that they'd been repeatedly bitten, forced to discard infested furniture and shunned both by relatives and other landlords too afraid to rent to them. While some residents are believed to have escaped with only emotional damage and laundry bills, others suffered repeated property losses and medical costs.

"Everybody sleeps on the floor," Elsie Mason resident Robert Hobbs said in an interview last year describing infested furniture. "You have to."

Court papers say the bedbugs eventually were brought under control after building officials last year hired a new exterminating company that treated both facilities with 120-degree heat.

The head of American Baptist Homes of the Midwest, a Minnesota agency that manages the buildings for the First Baptist Elderly Housing Foundation in Johnston, has previously acknowledged mistakes by on-site managers — including failures to aggressively treat the infestation or to deal appropriately with resident complaints.

American Baptist President Dave Zwickey could not be reached for comment Thursday. He earlier has said the organization intends to settle with residents eventually, once court proceedings sort out who is owed money and how much.

According to Novak's ruling, evidence presented so far indicates that several hundred possible plaintiffs share common complaints involving personal injury and misrepresentation by building management. Iowa law allows such cases to be handled together when they share common legal issues and when it would be impractical for each individual person to bring his or her own lawsuit.

"This case, in fact, seems to be the paradigm for when a class action is appropriate; a case attempting to vindicate the rights of a group of people who individually would be without effective strength to bring their opponents into court at all," the judge ruled.

Plaintiffs' attorney Jeffrey Lipman on Thursday described class certification as the case's first major hurdle for residents attempting to show that their claim should be taken seriously.

"Conventional wisdom is that that's your fight is class certification," the lawyer said. "It's a class action now."