

Lawsuit filed against Calgary homebuilder alleges mould contributed to 24-year-old's death

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Cochrane family file \$11M lawsuit against homebuilder

A Cochrane family accuses homebuilder of contributing to death of 24-year-old daughter. Brenna Rose reports.

CALGARY -- A Cochrane couple has launched an \$11-million lawsuit against a Calgary homebuilder after they say leakage and mould issues contributed to the death of their 24-year-old daughter and left them feeling unsafe.

Shane and Kandace Yakemchuk have been living in the Cochrane community of Heartland for nearly three years in a house built by Excel Homes.

The couple's daughter, Deja Fischer, died after suffering an asthma attack in her room in December 2018.

"She was just rapidly changing colour. I could tell something was so wrong," Kandace told CTV News. "Deja must have felt something different because she said, 'Mom, I know I'm going to die.'"

The 24-year-old was taken off life support nearly a month later.

The family has now filed a statement of claim against Excel Homes Limited Partnership, alleging negligence and breach of contract in construction.

The couple alleges improper building of their home resulted in water leaks and mould, which contributed to the death of their daughter.

Excel Homes issued a statement, saying the suit "appears to be without merit."

"We are surprised to have received a class action lawsuit as our company's reputation for post-sales support is strong," it read.

"At this time, we are reviewing the claim and preparing our statement of defense. Our initial reaction is this claim appears to be without merit and the company will take every step to protect our position and reputation."

The family moved into the Heartland community home in April 2017, and said they found water in the basement for the first time in February 2018.

The claim alleges the couple complained to the homebuilder, which did order tests and performed some remediation.

But Fischer's asthma attacks didn't stop.

According to her parents, the 24-year-old had asthma prior to moving into the home but never suffered an attack bad enough to send her to hospital.

Between April 11, 2018, and Dec. 5, 2018, she had a total of five attacks so severe paramedics were called.

"Our home is supposed to be a safe place. It's the biggest investment besides our health," said Shane, who along with his wife are the lead plaintiffs in a proposed class action.

Class action claim

The lawsuit was filed by Guardian Law Group LLP on Nov. 6, 2019 on behalf of the Yakemchuks and any current or former homeowners or tenants of Excel-built homes in Heartland "who experienced basement mould and/or moisture issues."

The statement of claim alleges the company "knew or ought to have known that there was a high-water table in the area but did not install sump pumps," used negligent "building design" and "sealing of the exterior foundation walls" and "intentionally or unintentionally failed to provide mould reports to the Plaintiff and/or Class members."

A mould report cited in the court documents indicated the spore count in the Yakemchuks' home was "400 times above" acceptable levels.

"This homebuilder has a duty of care and it's got a duty to take proper care to make sure the construction of the home is up to standards and it doesn't hurt people," lawyer Mathew Farrell told CTV News.

Farrell couldn't speak to the potential size of the proposed class action, which has yet to be certified in court, but said there had been "further responses simply by word of mouth."

The suit is seeking more than \$11 million in damages.

None of the allegations have been tested in court.

Excel has not yet responded to CTV News' requests for an interview.

Problems not resolved

The couple says the problems in their home are still not resolved as they found water in their basement as recently as two weeks ago.

The Yakemchuks are now left with a house that, if they choose to sell, would be sold at a "significant loss," according to the claim.

However, they are hesitant to leave the last home they shared with their daughter and the memories they made with her there.

"She was beautiful but humble and she had the most contagious laugh. She had a presence about her that when she entered a room, she was just this bright light," said Kandace.

For now, they are left waiting for their case to make its way through the courts.

"We want to make sure this doesn't happen to anyone else," Shane told CTV News.