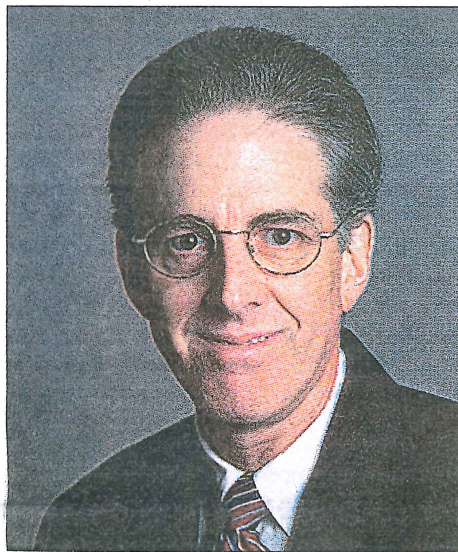




Buyers of Badly Constructed House Win \$7.1M Consumer Fraud Damage Award

A Morris County judge awarded \$7.1 million on Jan. 14 to buyers of a house found structurally unsound because it was built on substandard soil.

The sum awarded, in *Akhtar v. JDN Properties at Florham Park*, represents a trebling of the plaintiffs' damages under the Consumer Fraud Act.



USE OF SUBSTANDARD DIRT BLAMED: The plaintiffs' attorney, Jay Rice, said the soil-bearing capacity was to be at least 4,000 pounds per square foot, but the soil used had less than half that capacity.

Roughly \$1.6 million of the original \$2,117,735 in damages were for the house price; the rest was for property taxes, maintenance, utilities and insurance. The court also awarded \$740,906 in legal fees and litigation costs.

The plaintiffs, Humayun and Yosria Akhtar, signed a contract in April 2006 to buy the house from JDN Properties and closed that June. The house was to be built according to an architect's specifications, including that the soil-bearing capacity be at least 4,000 pounds per square foot. Beginning in September 2006, the plaintiffs noticed foundation cracks and sloping floors. Engineers hired by the plaintiffs and the developer concluded that the soil under a third of the house had a bearing capacity of less than 2,000 pounds. Repair costs were estimated at \$1.9 million, according to the plaintiffs' lawyer, **Jay Rice** of **Nagel Rice** in Roseland.

The defendants were JDN Properties at Florham Park, the developer of the subdivision; JDN's principal, Joseph Natale; Natale's business partner, Randy DeLuca; and Deltrus LLC, a company owned by DeLuca's family, which provided funding for the subdivision.

Superior Court Judge **W. Hunt Dumont** struck the defendants' answer, citing their violation of his orders requiring bonds to be posted in court. After a three-day hearing, Dumont found that the plaintiffs made a prima facie case under the CFA and that JDN's corporate veil should be pierced to impose liability on the other defendants. JDN is in Chapter 7 bankruptcy, says Rice.

Natale's lawyer, Haledon solo **David Stanziale**, did not return a call. Far Hills solo **Wolfgang Heimerl**, representing Deltrus and DeLuca, says he will appeal, partly on grounds that the answer was improperly stricken.

— By Charles Toutant