

Jury faults KC property for neighbor's muddy mess

By: Scott Lauck scott.lauck@molawyersmedia.com © April 12, 2023

A Jackson County jury awarded more than \$1 million in actual damages and \$4 million in punitive damages to a downtown Kansas City business whose building has been inundated with runoff from its partially demolished neighbor.

Brandon Boulware of Boulware Law, an attorney for the plaintiff Racket Merchandise Co., highlighted at trial that the vacant property in the 700 block of Grand Avenue has twice been broadcast to the world, as it sits on the route of the Kansas City Chiefs' Super Bowl parades in 2020 and 2023.

"I think the jury sent a clear message that you cannot come into this town and let your properties go to blight," Boulware said. "That won't be accepted here."

Ryan Karaim of Franke Schultz & Mullen, a defense attorney for the three Nebraska-based companies that own the two properties at issue in the suit, said an appeal of the verdict is likely.

The property at 718 Grand previously was the site of the Grand Avenue Garage, which was on the National Register of Historic Places but fell into disrepair and was demolished in 2018. Racket Merchandise, a longstanding family-owned business located at 713 Walnut Street, is on the same lot.

After the garage was demolished, the owners initially brought in clay-laden soil to regrade the property but were advised that the existing wall couldn't support the weight. In a suit filed in 2019, Racket alleged that the backfill was left to sit on the property, resulting in what Boulware described as a "mudslide" that had wrecked its basement.

The suit made claims for nuisance and negligence, as well as an ejectment claim based on the presence of the mud in the plaintiff's basement. The suit also named several companies involved in the demolition, but they settled out of the case mid-trial.

The lawsuit also seeks injunctive relief, which could result in judicially ordered abatement measures. No hearing for that claim has been set.

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\$5.33 million verdict

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Breakdown: Actual damages: \$750,000 (nuisance), \$400,000 (ejectment), \$180,000 (negligence). Punitive damages: \$3,460,000 (nuisance), \$540,000 (negligence)

Venue: Jackson County Circuit Court

Case Number/Date: 1916-CV16508/April 6, 2023

Judge: Sarah Castle

Last Pretrial Demand: Conveyance of properties

Last Pretrial Offer: \$750,000

Special Damages: \$427,000 in building repairs, \$830,000 diminution of property value, \$132,000 lost rent

Plaintiff's Experts: Clayton Hess, Mission, Kansas (engineer); Daniel Kann, Kansas City (commercial real estate appraiser)

Defendants' Experts: Mike Metcalf (engineer); Gary van Riessen, (engineer)

Caption: Racket Merchandise Co. v. 718 Grand LLC, U.S. Property Inc. and Power & Light Properties LLC

Plaintiff's Attorneys: Brandon Boulware and Jeremy Suhr, Boulware Law, Kansas City

Defendants' Attorney: Ryan E. Karaim, Franke Schultz & Mullen, Kansas City

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