

## **Compilation of Flood-Hazard Related Cases**

**December 2019**

### **I. Executive Summary**

This Compilation collects judicial decisions between January 2000 and October 2019 in which a real estate broker or salesperson and/or agency/brokerage was sued for alleged misconduct related to providing flood-hazard information in connection with a real estate transaction. Using broad search terms, over 4,500 potentially relevant reported cases decided over the two decades were retrieved and reviewed. Nearly all of those decisions were appellate court opinions. Of those cases, 61 fell within the narrow, specified parameters of this Compilation. Texas had the highest number (eight), followed by Ohio (six). Georgia, and Louisiana each had four.

Typical claims alleged against both licensees and brokerages include fraud, breach of fiduciary duty, negligent and/or intentional misrepresentation or omission, as well as violations of state consumer fraud or unfair trade practices laws. Most claims were brought by buyers against the sellers' agents/brokerages. However, buyers also sued their own agents for nondisclosure in some instances, and in a few cases, sellers brought suit against their own agents, usually seeking indemnity for liability imposed on the sellers for nondisclosure.

In 29 cases a lower court verdict, dismissal or summary judgment in favor of the licensee defendants was affirmed on appeal. On the other hand, in 18 cases, the appellate court reversed a dismissal or summary judgment in favor of the real estate broker or brokerage, and remanded the case back to the trial court for further proceedings, thereby allowing some or all of the plaintiffs' claims to continue through the trial court.

Verdicts in favor of plaintiff buyers were affirmed in whole or in part in 6 cases. In an Alabama case a total award of approximately \$1.12 million was ordered on appeal for four buyer-couples in the same development. In California, a \$539,080 verdict for the buyer was affirmed, subject to apportionment of liability on remand. Verdicts of \$55,512, \$168,551, \$15,000 and \$44,798 were also affirmed.

Note that this research did not include administrative decisions involving licensee failure to disclose flood-hazard information, nor does it include federal court decisions.

## **II. Case Summaries by State**

### **ALABAMA**

*[Cooper & Co. v. Lester, 832 So. 2d 628, 633 \(Ala. 2000\)](#)* (Four buyer-couples who each purchased homes in subdivision sued real estate agent and agency alleging misrepresentation of an existing flood hazard. The jury awarded each couple compensatory damages, with individual awards of \$63,887, \$76,460, \$59,512, and \$85,155. Punitive damages of \$250,000 were also awarded to each couple. Judgment of trial court affirmed on condition that plaintiffs agree to reduction of \$17,500 in the total compensatory damages, the amount of a pro tanto settlement with other defendants. The appellate court also reduced the punitive damages awards of three of the couples to \$191,663, \$229,380 and \$178,538, respectively.)

*[Gaulden v. Mitchell, 849 So. 2d 192 \(Ala. Civ. App. 2002\)](#)* (Purchaser sued vendor, prior owners, attorneys, and real estate agents alleging negligence, fraudulent suppression and misrepresentation, including false statement that there was no damage caused by wind, fire or flood. Summary judgment in favor of the vendor affirmed.)

*[Potter v. First Real Estate Co., 844 So. 2d 540 \(Ala. 2002\)](#)* (Purchaser sued real estate agent and agency alleging misrepresentation and fraud for representing that the property was not in flood plain. Summary judgment in favor of the real estate agent and agency reversed, and remanded for further proceedings.)

### **ALASKA**

None.

### **ARIZONA**

*[Barton v. Boesen, No. 1 CA-CV 10-0756, 2011 WL 2365863 \(Ariz. Ct. App. June 9, 2011\)](#)* (Purchaser sued sellers and realty company alleging fraud/concealment, negligent misrepresentation, breach of contract, breach of the implied covenant of good faith and fair dealing, unjust enrichment, consumer fraud and civil conspiracy for misrepresentation of flood plain. Trial court's dismissal of the complaint against sellers and realty company reversed.)

*[Befort v. Dan Schwartz Realty Inc., No. 1 CA-CV 10-0742, 2012 WL 301065 \(Ariz. Ct. App. Jan. 31, 2012\)](#)* (Purchasers sued real estate company alleging misrepresentation regarding flood damage. Summary judgment in favor of real estate company affirmed.)

### **ARKANSAS**

None.

## **CALIFORNIA**

*Morgan v. Adams*, No. C044371, 2005 WL 1766398 (Cal. Ct. App. July 27, 2005) (Purchasers sued sellers and real estate agent alleging misrepresentation regarding flooding problems. Trial court's verdict in favor of the sellers and the real estate agent affirmed.)

*Rice v. Coldwell Banker C&C Properties*, No. C045888, 2005 WL 2995354 (Cal. Ct. App. Nov. 9, 2005) (Purchasers sued realty agency alleging breach of fiduciary duty, breach of contract, fraud, and negligence regarding flooding. Judgment of trial court affirmed in favor of realty agency.)

[\*Sprewell v. Jurjevic\*, No. RG 06258200, 2011 WL 1260430 \(Cal. Ct. App. Apr. 5, 2011\)](#) (After buyer successfully sued the seller and recovered \$539,080 in damages, fees and costs for failure to disclose preexisting flooding problems, the seller sued the real estate broker and agents who represented him in the sale for indemnity, asserting claims for negligence and breach of fiduciary duty for failure to disclosure water intrusion problems. After the jury returned a verdict for the seller in the full amount of the judgment recovered by the buyer, the court entered judgment for 80% of that amount, reducing it by an estimated amount of comparative negligence by the seller. Judgment in favor of seller was set aside, and the order granting a new trial was modified to remove the 20% reduction and to limit the retrial to the issue of apportionment of liability by the jury.)

## **COLORADO**

None.

## **CONNECTICUT**

[\*McKiernan v. Green\*, No. CV020080077S, 2004 WL 2591891 \(Conn. Super. Ct., Oct. 8, 2004\)](#) (Purchaser sued seller and realty estate agency alleging negligence, negligence per se, breach of fiduciary duty, fraudulent nondisclosure and violation of Connecticut Unfair Trade Practices Act (CUTPA) regarding whether the property was in a flood plain and water damage. Real estate agency's motion for summary judgment denied as to negligence, negligence per se and CUTPA, and granted as to breach of fiduciary duty and fraudulent nondisclosure.)

[\*Worcester v. Salzillo\*](#), No. CV-08-5019588-S, 2009 WL 5511544 (Conn. Super. Ct., Dec. 16, 2009) (Purchaser sued real estate agency alleging CUTPA violation, negligence and negligent representations regarding flood damage. Real estate agency's motion to strike the CUPTA claims was denied.)

## **DELAWARE**

None.

## **DISTRICT OF COLUMBIA**

None.

## **FLORIDA**

[\*Jackson v. Shakespeare Found., Inc., 108 So. 3d 587 \(Fla. 2013\)\*](#) (Purchasers sued real estate broker for fraudulent misrepresentation regarding wetlands. Trial court's dismissal on grounds that dispute was within the scope of the contract's broad arbitration provision affirmed, remanded for further consideration.)

[\*Newbern v. Mansbach, 777 So. 2d 1044 \(Fla. Dist. Ct. App. 2001\)\*](#) (Purchasers sued real estate broker and insurance agent asserting claims for fraudulent and negligent misrepresentations as to whether property's location made it ineligible for flood insurance. Summary judgment in favor of real estate broker and insurance agent reversed, remanded for further proceedings.)

## **GEORGIA**

[\*Fann v. Mills, 248 Ga. App. 460, 546 S.E.2d 853 \(2001\)\*](#) (Purchaser sued buyer's agent, seller's agent, broker for both agents and the real estate brokerage for fraud and negligent misrepresentation regarding flooding. Appellate court held that the buyer "has no cause of action [against any defendant] based upon any flood damage because she is unable to demonstrate justifiable reliance, which is an essential element of both fraud and negligent misrepresentation claims.")

[\*O'Dell v. Mahoney, 324 Ga. App. 360, 750 S.E.2d 689 \(2013\)\*](#) (Purchaser sued vendors, listing agent and brokerage company for failure to disclose problems with septic system and flooding, alleging claims of negligence, negligent misrepresentation and negligent hiring and retention. Judgment in favor of agent and brokerage affirmed.)

[\*Shaw v. Robertson, 307 Ga. App. 337, 705 S.E.2d 210 \(2010\)\*](#) (Purchaser sued vendor's real estate agent and broker for fraud based on failure to disclose prior flooding. Summary judgment in favor of vendor's real estate agent and broker affirmed.)

[\*Walker v. Johnson, 278 Ga. App. 806, 630 S.E.2d 70 \(2006\)\*](#) (Purchaser sued vendor, developer, builder, broker, and real estate agent, seeking damages for drainage problems. Summary judgment in favor of builder on the nuisance claim reversed. Summary judgment in favor of broker and real estate agent affirmed.)

## **HAWAII**

None.

## **IDAHO**

None.

## **ILLINOIS**

None.

## **INDIANA**

None.

## **IOWA**

None.

## **KANSAS**

None.

## **KENTUCKY**

*[Shepard v. Willhite, No. 2004-CA-001518-MR, 2006 WL 2517065 \(Ky. Ct. App., Sept. 1, 2006\)](#)* (Purchasers sued seller and real estate broker alleging fraudulent inducement to purchase the residence based on incomplete statements regarding flood damage. Motions to dismiss in favor of seller and real estate broker affirmed.)

*[Waldrige v. Homeservices of Ky., Inc., 384 S.W. 3d 165 \(Ky. Ct. App. 2011\)](#)* (Purchasers sued seller's real estate agent and agency alleging fraud for failure to disclose prior flooding. Summary judgment in favor of real estate agent and agency reversed, and remanded for further proceedings.)

## **LOUISIANA**

*[Chumley v. Magee, 33 So. 3d 345 \(La. Ct. App. 2010\)](#)* (Purchaser sued real estate agent, home inspector, and vendors alleging breach of duty by the agent for failure to disclose flood zone. Summary judgment in favor of real estate agent, home inspector, and vendors affirmed.)

*[Hancock v. Lauzon, 161 So. 3d 957 \(La. Ct. App. 2015\)](#)* (Purchaser sued vendor's real estate agent for negligent misrepresentation in connection with property disclosure regarding prior flooding. Summary judgment in favor of vendor's real estate agent reversed.)

*[Hughes v. Goodreau, 836 So. 2d 649 \(2002\)](#)* (Sellers sued real estate brokerage and real estate agents seeking tort damages in action in which purchasers successfully sued sellers on claim of negligent misrepresentation regarding flood damage. Amended verdict awarding \$55,512.79 to sellers affirmed.)

*[Rabalais v. Gray, 167 So. 3d 101 \(La. Ct. App. 2014\)](#)* (Purchasers sued vendors and vendors' real estate agent and brokerage, alleging fraud, intentional misrepresentation, and negligent misrepresentation regarding false flood insurance information. Summary judgment in favor of vendors' real estate agent and her brokerage affirmed.)

## **MAINE**

None.

## **MARYLAND**

*Basso v. Campos*, 233 Md. App. 461, 165 A.3d 613 (2017) (Purchaser sued vendor and real estate broker alleging negligent misrepresentation, fraudulent misrepresentation, violations of the Maryland Consumer Protection Act, and a claim against the broker for negligent supervision and hiring for failure to disclose flooding issue. Judgment in favor of vendor and real estate broker reversed and remanded for further proceedings.)

## **MASSACHUSSETS**

None.

## **MICHIGAN**

*Sterrett v. Theisen*, No. 262226, 2005 WL 2292677 (Mich. Ct. App., Sept. 20, 2005) (Purchaser sued sellers and real estate agency alleging misrepresentation, breach of contract and violation of the Consumer Protection Act regarding flooding and drainage disclosure. Summary disposition in favor of seller and real estate agency affirmed.)

## **MINNESOTA**

None.

## **MISSISSIPPI**

*Laird v. ERA Bayshore Realty*, 841 So. 2d 178 (Miss. Ct. App. 2003) (Purchasers sued listing real estate agent and brokerage and pest control service alleging statutory non-disclosure, breach of contract, fraud, fraudulent concealment, misrepresentation, and intentional infliction of emotional distress regarding flood and terminate damage. Summary judgment in favor of realtor, brokerage, and pest control service affirmed.)

*Palmer v. Pittman*, 90 So. 3d 84 (Miss. Ct. App. 2011) (Purchasers sued their real estate agent, brokerage and its parent company for agent's alleged failure to disclose severe flood damage to home and its location in a special flood zone. The trial court's denial of real estate agent and company's motion to compel arbitration affirmed, thereby permitting the purchasers' claim to proceed.)

## **MISSOURI**

*Keefhaver v. Kimbrell*, 58 S.W.3d 54 (Mo. Ct. App. 2001) (Purchaser sued vendors, and brokerage and agent, alleging fraudulent misrepresentation, negligent misrepresentation, and breach of duty for failure to disclose flood or drainage problems. Judgment in favor of the agent and broker was

not appealed. On appeal, the directed verdict in favor of the vendors reversed, remanded for further proceedings.)

*White v. Bowman*, 304 S.W.3d 141 (Mo. Ct. App. 2009) (Purchasers' lender brought action against vendors, real estate salesperson, and relocation management company used by the vendor's employer alleging fraudulent and negligent misrepresentation and concealment relating to home's water- and flood-related conditions. Summary judgment in favor of real estate salesperson was affirmed. Judgment granting vendors and relocation management company's motion to dismiss reversed, remanded for further proceedings.)

## **MONTANA**

*Watterud v. Gilbraith*, 381 Mont. 218, 358 P.3d 891 (2015) (Purchasers sued seller's real estate agent for negligence based on failure to disclose extent of flood remediation work and mold. Summary judgment in favor of seller's real estate agent affirmed.)

## **NEBRASKA**

None.

## **NEVADA**

None.

## **NEW HAMPSHIRE**

None.

## **NEW JERSEY**

*De Pompe v. Weichert Realtors*, No. L-1834-08, 2011 WL 2566132 (N.J. Super. Ct. App. Div., June 30, 2011) (Purchaser sued real estate brokerage and agent for violations of the Consumer Fraud Act regarding flood-zone representations. Trial court's dismissal of claims in favor of real estate brokerage and agent reversed, remanded for further proceedings.)

*Perri v. Prestigious Homes, Inc.*, No. L-4169-08, 2012 WL 95564 (N.J. Super. Ct. App. Div., Jan. 13, 2012) (Purchaser sued real estate agent and agency alleging common-law fraud, conspiracy and violation of the Consumer Fraud Act based on misrepresentation that flooding was not something to worry about. Summary judgment in favor of real estate agent and agency affirmed.)

## **NEW MEXICO**

None.

## **NEW YORK**

[\*Berger-Vespa v. Rondack Bldg. Inspectors Inc., 293 A.D.2d 838 \(N.Y. App. Div. 2002\)\*](#)

(Purchasers sued vendors, real estate broker and home inspector for fraud and negligent misrepresentation due to defendants' alleged failure to disclose flooding problems in home. Summary judgment in favor of vendors, real estate broker and home inspector affirmed.)

[\*Daly v. Kochanowicz, 67 A.D.3d 78 \(N.Y. App. Div. 2009\)\*](#) (Purchaser sued real estate agent, broker and vendors for fraud and breach of fiduciary duty regarding property's history of severe flooding. Dismissal in favor of real estate agent, broker and vendor affirmed.)

## **NORTH CAROLINA**

[\*Hanser v. Stonehouse, 203 N.C. App. 149, 692 S.E.2d 194 \(2010\)\*](#) (Purchasers sued vendors and vendors' real estate agency alleging fraudulent or negligent misrepresentation of the condition of the property based on vendor's statement that the home had no drainage problems and she did not know of any flood hazards. Summary judgment in favor of vendors and vendors' real estate agency affirmed.)

## **NORTH DAKOTA**

None.

## **OHIO**

[\*Fleck v. Loss Realty Group, No. CV-589925, 2011 WL 282352 \(Ohio Ct. App., Jan. 14, 2011\)\*](#) (Purchasers brought fraudulent misrepresentation action against real estate agency regarding flood-hazard information. Summary judgment in favor of real estate agency affirmed.)

[\*Li-Conrad v. Curran, 50 N.E.3d 573 \(Ohio Ct. App. 2016\)\*](#) (Purchaser sued vendors, real estate agency and real estate agents alleging fraud, negligent misrepresentation and violations of the state's Consumer Sales Practices Act regarding disclosure of flood damage. Summary judgment in favor of vendors, real estate agency, and real estate agents affirmed.)

[\*Loomis v. Troknya, 2006 Ohio 731, 165 Ohio App. 3d 300 \(2006\)\*](#) (Purchaser sued vendors and real estate agency alleging breach of fiduciary duty against agency and negligent and intentional misrepresentation against all defendants regarding problems with septic system and related flooding. Judgment in favor of vendors and real estate agency affirmed.)

[\*Miller v. Coldwell Banker Hunter Realty, No. WD-10-011, 2010 WL 4892677 \(Ohio Ct. App., Dec. 2, 2010\)\*](#) (Vendors sued their real estate agency for breach of fiduciary duty, negligence and fraud as to flooding and drainage disclosures after vendors were found liable in suit by buyers for intentional misrepresentations regarding flood hazard. Verdict awarding vendors \$126,858 in damages reversed.)

Ruggles v. Russell Realtors, No. 03CA00841, 2004 WL 1933215 (Ohio Ct. App., Sept. 1, 2004) (Purchasers sued vendor and vendor's real estate agent and agency alleging fraudulent misrepresentation regarding disclosure of flood hazard. Summary judgment in favor of vendor, real estate agent, and real estate agency affirmed.)

Schroeder v. Henness, 2013-Ohio-2767, No. 2012 CA 18, 2013 WL 3356564 (Ohio Ct. App., June 28, 2013) (Purchasers sued vendors alleging fraud, failure to disclose, negligence, negligent misrepresentation and wrongful concealment as to water damage. Vendors filed third-party complaint against their real estate agent and agency alleging breach of fiduciary duty. Summary judgment in favor of vendors on purchaser's claims affirmed.)

## **OKLAHOMA**

Stauff v. Bartnick, 387 P.3d 356 (2016) (Purchaser sued vendors and transaction real estate broker alleging violations of Residential Property Condition Disclosure Act and negligence for disclosure regarding flood and drainage problems. Summary judgment in favor of vendors reversed. Order granting broker's dismissal motion reversed. Case remanded for further proceedings.)

## **OREGON**

Terway v. Real Estate Agency, 223 Or. App. 501 (2008) (Real estate agent sought judicial review of a final order of the Real Estate Commissioner reprimanding her in connection with representation of a seller in a real estate transaction for failure to disclose flood plain information. Final order affirmed.)

## **PENNSYLVANIA**

Broeg v. Pivovar, 79 Pa. D. & C.4th 129 (2006) (Purchaser sued vendor and vendor's real estate agent alleging negligent misrepresentation for failure to disclose flood plain. Purchaser granted leave to amend complaint, thereby allowing the claim to proceed.)

## **RHODE ISLAND**

McNulty v. Chip, 116 A.3d 173 (R.I. 2015) (Purchasers sued vendor and real estate agency alleging breach of contract, negligence and fraud for failure to disclose previous flooding. Summary judgment in favor of defendants on the contract and negligence claims affirmed. Summary judgment in favor of defendants on the fraud claim vacated and remanded for further proceedings.)

## **SOUTH CAROLINA**

Chastain v. Hiltabidle, 381 S.C. 508, 673 S.E.2d 826 (Ct. App. 2009) (Purchasers brought negligence action against real estate agency alleging breach of duty to investigate latent defects in the property regarding flood zone/damage. Summary judgment in favor of real estate agency affirmed.)

*McLaughlin v. Williams*, 379 S.C. 451, 665 S.E.2d 667 (Ct. App. 2008) (Purchaser sued vendor, vendor's real estate agent, and purchaser's real estate agent alleging fraud and misrepresentation for structural defects due to water intrusion. Summary judgment in favor of all three defendants affirmed.)

## SOUTH DAKOTA

None.

## TENNESSEE

*Ingram v. Cendant Mobility Fin. Corp.*, 215 S.W.3d 367 (Tenn. Ct. App. 2006) (Purchasers sued vendor alleging breach of contract, negligent and fraudulent concealment, negligence, willful and negligent misrepresentation and violations of the Consumer Protection Act related to whether the house was subject to flooding. Summary judgment in favor of vendor affirmed in part on grounds that vendor's designated real estate agent's knowledge could not be imputed to vendor.)

*Samford v. Ogles*, No. M2003-01299-COA-R3-CV, 2004 WL 2254026 (Tenn. Ct. App., July 9, 2004) (Purchaser of residential property filed negligent misrepresentation action against the listing real estate agent and brokerage alleging that agent knew of flooding and failed to communicate that information to plaintiff. Summary judgment in favor of real estate agent and brokerage affirmed.)

*Staggs v. Sells*, 86 S.W.3d 219 (Tenn. Ct. App. 2001) (Purchaser brought action against vendors for negligent misrepresentation through their agent regarding flooding on property. Judgment awarding \$15,000 to purchaser affirmed.)

## TEXAS

*Calhoun v. I-20 Team Real Estate, LLC*, No. 12-18-00224-CV, 2019 WL 456892 (Tex. App., Feb. 6, 2019) (Purchasers sued their brokerage alleging breach of legal duty to use reasonable care and diligence in failing to discover facts concerning the property's and home's flooding history. Judgment granting brokerage's motion to dismiss reversed; claim remanded for further proceedings.)

*Dentler v. Perry*, No. 04-02-00034-CV, 2002 WL 31557302 (Tex. App., Nov. 20, 2002) (Purchasers of home with allegedly undisclosed flooding problems brought action against vendor, deceased vendor's children, vendor's brokers, and contractor for unconscionable course of action, negligent misrepresentation, violations of the Real Estate License Act, rescission, violations of the Deceptive Trade Practices Act, negligence, and statutory fraud, and against vendor for nuisance. Summary judgment in favor of vendor's children and contractor reversed and remanded. Summary judgment in favor of vendor's children for nuisance, violation for the Real Estate Licensing Act, violation of section 17.46(b)(7) of the DTPA, and statutory fraud are reversed and remanded. Summary judgment in favor of vendor's brokers for violations of the Real Estate Licensing Act, negligence and statutory fraud are reversed and remanded. The remainder of the summary judgment in favor of vendor and vendor's brokers was affirmed.)

[\*Hoang v. Gilbert\*, No. 01-15-00681-CV, 2016 WL 1470036 \(Tex. App., Apr. 14, 2016\)](#) (Buyers of a flood-damaged house sued the sellers and their real estate agent for fraud, conspiracy, and violations of the Deceptive Trade Practices Act regarding disclosure of prior flooding. Jury found real estate agent not liable. Appellate court affirmed trial court's denial of agent's claim for attorney fees.)

[\*McCaffety v. Bell\*, No. 09-99-291 CV, 2000 WL 1160468 \(Tex. App., Aug. 17, 2000\)](#) (Purchasers sued broker for deceptive trade practices, and sued vendor for fraud in the inducement of contract, alleging that vendor falsely represented that the property did not flood and failed to disclose information about flooding on the property. Judgment in favor of broker and vendor affirmed.)

[\*Myre v. Meletio\*, 307 S.W. 3d 839 \(Tex. App. 2010\)](#) (Purchasers of lots in residential subdivision brought claims for fraudulent nondisclosure and negligence against developers and development corporation/real estate transaction representative, alleging the lots were prone to flooding. Judgment in favor of purchasers against developers on fraud claim reversed and remanded for the purchasers to make a new election of remedies.)

[\*Osborne v. Coldwell Banker United Realtors\*, No. 01-01-00463-CV, 2002 WL 1480894 \(Tex. App., July 11, 2002\)](#) (Purchasers brought action against vendors and vendors' real estate agents, alleging violations of the Deceptive Trade Practices Act (DTPA), common-law fraud, fraud in a real estate transaction, and negligent misrepresentation regarding compliance with Federal Emergency Management Agency (FEMA) and National Flood Insurance Program (NFIP), and that such noncompliance could result in denial of flood insurance. Summary judgment in favor of vendors and vendors' real estate agents on buyers' claims reversed and remanded for further proceedings. Summary judgment in favor of vendors' real estate agents on sellers' claim for negligence reversed and remanded for further proceedings.)

[\*Sutton v. Ebby Halliday Real Estate, Inc.\*, 279 S.W.3d 418 \(Tex. App. 2009\)](#) (Purchasers brought action against purchasers' agent, real estate broker, and manager, alleging that they knew the property flooded and purposefully concealed that information. Jury verdict for plaintiffs awarding \$94,000 in compensatory damages, \$35,000 for mental anguish and \$1 million in punitive damages. Trial court entered judgment notwithstanding the verdict for only compensatory damages and fees. Judgment reversed, with appellate court holding that evidence legally insufficient to sustain verdict and that plaintiffs take nothing.)

[\*Texas Real Estate Comm'n v. Asgari\*, 402 S.W.3d 814 \(Tex. App. 2013\)](#) (Purchasers of property brought action against real estate broker, alleging false, misleading, or deceptive conduct by broker in violation of the Texas Deceptive Trade Practices Act including flood-plain status. Judgment in favor of purchasers awarding maximum allowed payment from the Real Estate Recovery Trust Account affirmed.)

## UTAH

None.

## **VERMONT**

None.

## **VIRGINIA**

[\*Layman v. Friedlander, No. 211047, 2003 WL 22785038 \(Va. Cir. Ct., Oct. 3, 2003\)\*](#) (Purchasers sued agent alleging misrepresentation regarding flood insurance. Purchasers' amended motion for judgment found to be properly filed. Agent's demurrer to fraud, breach of contract and violation of Virginia Consumer Protection Act is overruled. Agent's demurrer to consecutive fraud is sustained with no leave to amend.)

## **WASHINGTON**

[\*Svendsen v. Stock, 143 Wash. 2d 546, 23 P.3d 455 \(2001\)\*](#) (Buyer sued brokers, sellers, the homeowner's association and property inspector alleging fraudulent concealment and violations of Consumer Protection Act (CPA) in connection with flooding caused by drainage problem. Jury returned verdict of \$38,298. Trial court added damages of \$6,500 for CPA violation, which was appealed. On appeal, judgment awarding buyer damages under the CPA was held proper. Remanded for a recalculation of the award of attorney fees to buyer. Attorney fees awarded to buyer on appeal.)

## **WEST VIRGINIA**

None.

## **WISCONSIN**

None.

## **WYOMING**

[\*Adelizzi v. Stratton, 2010 WY 148, 243 P.3d 563 \(2010\)\*](#) (Buyers sued their agent and broker for professional negligence based on agent's failure to disclose history of flooding of home. Judgment in favor of agent and broker affirmed.)

[\*Alexander v. Meduna, 2002 WY 83, 47 P.3d 206 \(2002\)\*](#) (Purchasers brought fraudulent misrepresentation action against sellers, one of whom was the listing broker, for failing to disclose significant groundwater seepage and past flooding into the home. Judgment awarding compensatory damages to purchasers reversed in part and remanded to the district court for reduction of compensatory damages to \$96,218. Awards to purchasers of \$25,000 in punitive damages and \$47,333 attorney fees and costs affirmed.)

### III. Tables of Cases

#### Cases by State

<b>State</b>	<b>Number of Cases</b>
Alabama	3
Alaska	0
Arizona	2
Arkansas	0
California	3
Colorado	0
Connecticut	2
Delaware	0
District of Columbia	0
Florida	2
Georgia	4
Hawaii	0
Idaho	0
Illinois	0
Indiana	0
Iowa	0
Kansas	0
Kentucky	2
Louisiana	4
Maine	0
Maryland	1
Massachusetts	0
Michigan	1
Minnesota	0
Mississippi	2
Missouri	2
Montana	1
Nebraska	0
Nevada	0
New Hampshire	0
New Jersey	2
New Mexico	0
New York	2
North Carolina	1
North Dakota	0
Ohio	6
Oklahoma	1
Oregon	1
Pennsylvania	1

Rhode Island	1
South Carolina	2
South Dakota	0
Tennessee	3
Texas	8
Utah	0
Vermont	0
Virginia	1
Washington	1
West Virginia	0
Wisconsin	0
Wyoming	2
<b>Total</b>	<b>61</b>

### Cases by Year

<b>Year</b>	<b>Number of Cases</b>
2000	2
2001	5
2002	7
2003	2
2004	3
2005	3
2006	5
2007	0
2008	2
2009	5
2010	6
2011	6
2012	2
2013	4
2014	1
2015	3
2016	3
2017	1
2018	0
2019	1
<b>Total</b>	<b>61</b>