

## Experts in Suing the Builders

By Jennifer Hieger, © The Washington Post

**July 21, 2001** - In the past 25 years, Thomas Miller he has won more than \$400 million suing home builders for leaky roofs and cracking stucco, he said.

As the most prominent champion of construction-defect lawsuits in Orange County, Calif., he has sometimes been blamed for escalating home prices -- the cost, builders say, of endless and sometimes frivolous lawsuits.

Whatever his impact on the market, he is one of the industry's biggest tormentors.

And he has reinforcements. Since 1994, Miller's daughter Rachel has worked at his law firm in Newport Beach, Calif.

In 1999, the father-daughter team published a book to guide lawyers through the process of filing a construction-defect suit. Now they've written a handbook for consumers, "Home and Condo Defects: A Consumer Guide to Faulty Construction."

Here, Thomas and Rachel Miller talk about their practice and their relationship:

**Q:** few years ago, you co-wrote a book geared toward other lawyers about construction defects. Who had the idea to put together a book for homeowners?

**Rachel:** "It was Tom's idea. The need was pretty clear. Over the years, I've fielded calls from all sorts of property managers and homeowners, and they asked the same questions over and over. Sometimes people called wanting to order the book we wrote earlier, for lawyers, and I'd say, 'No, that's not a book for the lay person.' But we kept handing them out."

**Q:** How many calls does your office receive in a week from people wanting to talk about a problem with their home?

**Rachel:** "About a dozen calls a week, and five to 10 e-mails a day."

**Q:** How many cases do you take?

**Thomas:** "Our Newport Beach office, which basically covers Southern California, is working on 20 cases. We settle about one a month. They each take about two years to resolve."

**Q:** How do you determine whether a homeowner's problem is worth further investigation? Are you able to rule out a lot of people based just on a phone call?

**Thomas:** "It doesn't make sense to represent just one owner. We look for multiple owners

with similar problems. Say we're talking about a development with 100 homes; we'd hope to represent about half of the owners. But generally the more expensive the homes, the fewer we need."

**Rachel:** "When people call we complete a one-page form that briefly describes the problem, who the builder was and how old the home is. Knowing the builder's identity can be particularly helpful if we've sued the company before."

**Thomas:** "We see some builders time and again."

**Q:** Tom, your name is pretty well known in Orange County, particularly among home builders. Does that very often make for uncomfortable encounters outside the office?

**Thomas:** "Orange County is small in some respects but large in others. It's large in that there is no one place people tend to congregate. But I occasionally have spotted builders out at restaurants. I know people in the industry talk about me. I heard about one meeting where someone held up my picture with a big line drawn through the middle of it."

"As far as I'm concerned, our firm provides a valuable service. I've gotten pretty thick-skinned over time. In fact, I have a yacht called Sea of Defects docked in front of my home on Balboa Island. It's raised a few eyebrows."

**Q:** Sometimes cases drag on for years. How do you keep clients from having a nervous breakdown?

**Thomas:** "We have a contractor who takes care of immediate problems. We also provide monthly status reports and quarterly disclosure statements, which owners need if they decide to sell or refinance. And we periodically hold meetings with the homeowners."

**Rachel:** "I frequently field calls on the weekend. I'm basically available 24 hours a day."

**Q:** Do you ever wish you chose a less-demanding career, Rachel? You could have been, I don't know, a dentist.

**Rachel:** "I never was interested in the medical profession."

**Q:** Tom, I understand you have a son who also is a lawyer. Does he plan to join the firm?

**Thomas:** "Yes, Matthew. He graduated from Hastings College of the Law last year. Whether he eventually does [join] will be up to him."

It's in the blood, I guess. Is your wife a lawyer by any chance?

**Thomas:** "No, but we were high school sweethearts. At St. Anthony's in Long Beach."

**Q:** And you, Rachel?

**Rachel:** "No, I'm single."

**Q:** Rachel, what is it like to work with your dad? After all, this is the guy who used to set your curfew.

**Rachel:** "I basically was raised in the practice, so I have a strong sense of what he is trying to accomplish. In high school I spent summer vacations answering the phone and filing documents. Now our offices are side by side and we share a balcony. In the morning we touch base over coffee, but the rest of the time, other than when we travel [together], we usually work apart.

"I think we're maybe a little more open, a little more frank, because we're father and daughter, but we never argue."

**Q:** Growing up, did he encourage you to become a lawyer?

**Rachel:** "He never said, 'Rachel, you ought to be a lawyer,' but he did tell me that the firm could offer me a unique opportunity."

**Q:** Is that how you remember it, Tom? Did you look at her in the fourth grade and see a budding partner?

**Thomas:** "Well, she was very argumentative growing up. She and her mom had some huge fights. I usually tried to stay on the sidelines."