

## Elkview Flood Victims Testify in Mall Suit

CHARLESTON, W.Va., September 23, 2003/The Charleston Gazette/ When Whitey Ferrell recalled for a Kanawha County Circuit Court jury what a 1997 flood did to his Elkview home, several other people in the courtroom nodded in agreement Monday.

When the trial broke for the day, one woman told Ferrell she was moved while she listened to him describe how his home was damaged by swift flood waters.

Ferrell and nearly 50 other residents or former residents of the Frame Road area of Elkview began their civil lawsuit in 1999 when they sued for damage caused by floods in 1997 and 1998. They allege nearby logging and development of the Crossings Mall in Elkview caused their properties to flood. Two people died and numerous homes were damaged in the floods.

Interstate Properties Inc., Covington Place Associates, Charles O. Moles, William Abruzzino and Mary Abruzzino remain as defendants in the case as owners, operators and contractors involved in construction of the mall and culvert.

Ferrell, who lived along a creek bed, bought his five-bedroom home in the late 1980s. He said he knew it was in flood plain so he bought flood insurance.

"There was no evidence of water damage," he said.

Not far from his home, development of a shopping center was underway. Ferrell and the other plaintiffs in the lawsuit allege it was the construction of the culvert that damned the Little Sandy Creek.

By noon on March 1, 1997, Ferrell, his wife and three young children had saved what they could, loaded their car and escaped as their home moaned under the pressure of the water inside.

"I tried to keep it calm," he said as he held back tears. "It kept filling up and filling up."

When he finally returned home the next day the water that destroyed their home and numerous papers, books and belongings inside, topped 55 inches according to marks on his walls. The mud was inches thick. They spent more than five months with friends, in hotels and in a rented four-room apartment.

"It's unbelievable... what happened," he said.

Ferrell, now a teacher at Riverside High School, was one of the first to testify in the trial before Kanawha Circuit Judge Jennifer Bailey Walker. The trial is expected to last several weeks.

Charleston lawyer John Sutter is leading the case for the plaintiffs. The law firms of Huddleston, Bolen, Beatty, Porter and Copen and Pullin, Fowler, and Flanagan represent the defendants.

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