

HOME INSPECTION

General Information

The homeowner purchased a house two years ago in Newton from Jay R. Birch, an elderly man who had lived in the house for 30 years. An inspection was done by Andrews Inspection Service prior to the closing. Other than a few minor problems that were immediately corrected by the former owner, Andrews Inspection Service gave the house a clean bill of health. A year ago, the homeowner hired a contractor to do some minor renovations including the widening of an interior archway. When the contractor began to remove the existing archway, he discovered severe termite damage. The contractor suggested that the homeowner have the home reinspected, and the new inspection report showed severe termite damage throughout the house and a cracked foundation. There is no current infestation of termites, and the damage appears to be at least five years old and treated by an exterminator. The previous owner is now deceased. No written contract between the homeowner and Andrews Inspection Service can be located, although the homeowner recalls that one was signed.

The cost to repair the damage is estimated at a minimum of \$40,000 and may go higher if further damage is found. Andrews Inspection Service is part of a national chain and is self-insured. Andrews Inspection Service has offered \$5,000 for a nuisance value settlement. The corporate office's customer service department suggested mediation.

Confidential Information for The Homeowner

You are extremely upset about the problem with your house. You struggled to be able to buy it and you have very limited reserves for repairs. You want Andrews Inspection Service to pay for all of the repairs plus you want some money for your emotional distress that this problem has caused you. You've not been able to sleep at night for months. You are an attorney now working in the public sector and are earning under \$40,000 a year. You are insulted by the offer of \$5,000.

What has upset you even more than the problems with the house is the characterization of you as being "too cheap" to purchase a complete inspection which would have included termite inspection. The representative from Andrews Inspection Service has told you that the complete inspection would have shown the damage. You thought you had purchased a "complete inspection" and were never offered anything else. You certainly paid enough money for the inspection and have located a copy of your check, made out to the inspector as he instructed, for \$750 and a contract that shows that you paid for the complete inspection (*note – do not disclose this to the mediators until after the initial joint session*). You have brought this along today.

You have no idea about how to resolve this problem unless you get the full amount of the repairs paid by the inspection service. You can't sell the house without disclosing the damage and you would never recoup your purchase price. Since the former owner is dead and the estate distributed, no recourse is available from him. You don't believe that mediation will be at all helpful unless the mediator can convince them to pay all that you need. You desperately want to resolve this but are willing to file a lawsuit if there is no satisfactory outcome of the mediation. You will represent yourself in the lawsuit so you will not have legal fees.

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Confidential Information for Andrews Inspection Service

You are the local district manager for Andrews Inspection Service. The inspector for this home was fired a year ago when you discovered that he had been falsifying reports and contracts. You haven't uncovered the full impact of this inspector's mismanagement; however, you strongly suspect that this case resulted from his misconduct. This former inspector can't be located. You have not disclosed any of this to the homeowner and do not wish to unless compelled by the court. If this came to light, it would invite many more lawsuits that your company just couldn't handle.

Andrews Inspection Service offers three levels of home inspections: \$750 for an invasive inspection for termites and other non-obvious damage; \$500 for a mid-level inspection, and \$300 for a basic inspection of utilities and obvious defects. According to your records, this homeowner paid the inspector \$300, although no contract can be found.

You are anxious to resolve this and are very concerned about negative publicity. The corporate office is exerting pressure on you to do as much damage control as possible. You have heard rumors that the Attorney General's Office has gotten wind of the problem. You have full authority to settle at whatever you think is best, but you want to be able to back up your decision to corporate.

You have some concerns that the estimate the homeowner has quoted to you is high and may include renovations and not be just repair for the termite damage and the foundation. You have contacts with certain contractors whom you trust to provide a second estimate and even do the work at a reasonable price.

You do not want to go to court. You do not want anyone to know of the problems with the former employee. You are trying to track him down in order to file criminal charges against him. If the homeowner provides sufficient evidence of wrongdoing by the former employee, you will do anything to settle this as long as there is non-disclosure/confidentiality agreement. However, you do not wish to appear too eager to settle.