

Racketeering, fraud case against Orkin goes to trial

By VICKIE CHACHERE
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TAMPA — At Coachman Crossing Apartments, manager Kelly Smith-Kerr checks for hidden termite damage by kicking the wood balconies at each apartment. If the balcony sways, she figures the subterranean termites have gotten to it.

The apartment complex has a contract with Orkin to rid it of pests, but instead of welcoming the friendly Orkin man seen in commercials, the apartments' owners are suing his company in a \$6.7 million case that goes to trial this week.

The lawsuit accuses the company of leaving the apartment's owners and residents vulnerable to the wood-hungry pests by faking treatments and reinspections. The suit is one of several legal cases making similar allegations against Orkin filed throughout the southeastern United States.

The Coachman Crossings complaint is the first to go to trial in Florida and features testimony from former Orkin employees who say they routinely forged customers' signatures on reinspection tickets even though they never did the work the expensive contracts required.

"They have a big name. They sound good on TV," Smith-Kerr said. "Who would think such a well-known company would scam their customers and forge their names and basically commit fraud?"

Orkin declined to respond to questions about customers' allegations. The Atlanta-based company operates 400 offices nationwide and has 7,500 employees.

"Because this case is pending and the trial has not even begun yet, we think it would be highly inappropriate to characterize the allegations or evidence or to otherwise comment on the trial at this time," the company said in a statement released Friday.

In depositions taken in the case, the former Orkin employees have said there was simply too much work to get done and managers were under pressure to post big earnings and performance numbers for the company.

The practice was no secret within Orkin. Court records include company documents where managers were warning of forgery, theft, and fraud, and reminding employees that doing so would leave the company vulnerable to lawsuits.

Peter Cardillo, the attorney for Coachman Crossing Apartments, said he found it remarkable those memos only talked about protecting the company, not its customers or their property.

Cardillo, who has spent the past seven years bringing cases against Orkin, said the company's practice was particularly damaging in Florida, where Orkin once listed Miami, Tampa,

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and Orlando in its top 10 cities for termite infestations.

"We are ground zero for subterranean termites in central Florida, and Orkin knows that," Cardillo said. "That's what makes it particularly egregious. If they do the same thing in Alaska and a homeowner never gets termites, it doesn't matter. But it matters in Florida."

For Smith-Kerr, the battle against Orkin is nearly a decade old.

Shortly after she became manager of the 218-unit complex in Clearwater, she started seeing swarms of termites. The complex had a contract with Orkin requiring the company to retreat the property if termites reappeared.

Later, she said she discovered that Orkin exterminators didn't do the treatment properly, or possibly at all. By 1998, the complex was literally falling apart in some places due to termite damage.

Balconies became rickety and doorways were collapsing

as the bugs ate from the inside out of the apartments' wood frame. More damage wasn't visible until the termites ate through the buildings' siding. Repairing just one corner of a building costs the apartments' owners about \$10,000.

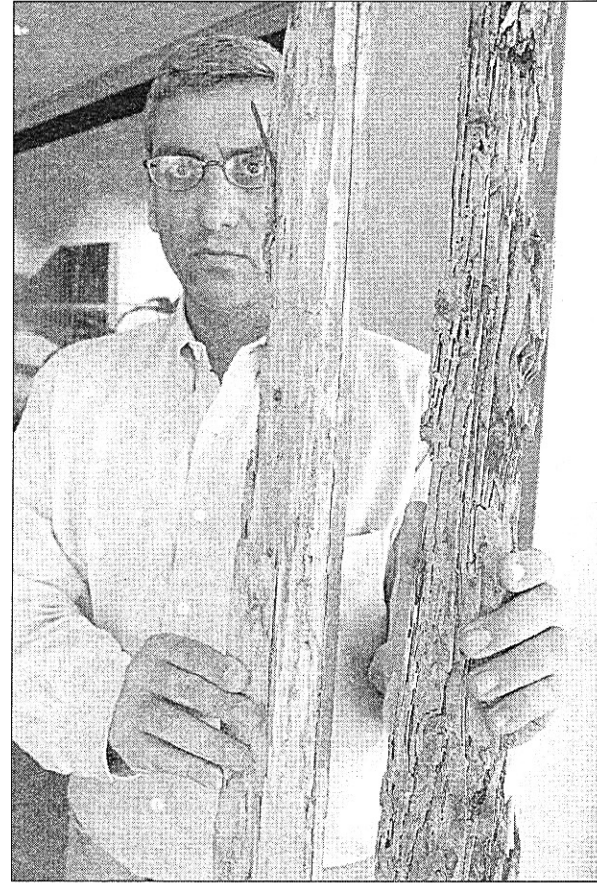
The problems were personal for Smith-Kerr, who lived at the apartment complex and was afraid to let her child set foot on the balcony, worried it would collapse from the termite damage.

"As far as I know they never reinspected the way they were supposed to," she said. "I never saw anyone come in and do a thorough reinspection of every building. They would sign reinspection tickets saying 'no evidence found,' and three weeks later we'd call them to come back."

Later, she said she found that her signature had been forged three times on forms acknowledging that retreatments had been done.

That echoes what others have testified happened to them when they had termite troubles.

In what might be Orkin's largest Florida case yet, the company is appealing a circuit judge's decision to grant class action status to a lawsuit representing individual homeowners. If that class-action status is upheld, it could mean as many as 100,000 Florida homeowners could have a claim against the company, said Dan Clark, the plaintiffs' attorney.



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Attorney Peter Cardillo, seen here holding a piece of termite-infested wood, has spent the last seven years bringing lawsuits against pest-control giant Orkin. Orkin will go to trial this week in Tampa to defend itself against racketeering and fraud charges.