

# Stevens & Kuss S.C.

## Attorneys at Law

### **YOU CAN BE RIGHT AND STILL LOSE**

At the last home inspector's conversation, my partner and I put on a mock trial. The trial involved a home inspector who inspected a roof and was later sued. The home inspector didn't go on the roof, didn't crawl in the attic and never look at the seller's condition report. He was only able to see approximately 50% of the roof from the ground and made that clear to the homebuyer. The inspector missed some serious problems with the roof.

A jury of average non-home inspectors listened to the case and awarded the homeowner money damages finding the home inspector negligent. The home inspectors in the audience were pretty evenly split on whether the home inspector was at fault or not.

At the seminar a home inspector told me a story about how he had inspected a furnace and was unable to determine its condition. He advised the homeowner to obtain a follow up inspection from an HVAC professional. The customer didn't follow the home inspector's advice and shortly after the purchase the homeowner found out she needed a new furnace. The home inspector was sued, went to trial before a judge and the judge determined that the home inspector should buy his customer a new furnace.

The point of all this is that you can do everything right and still lose. Some cases settle, some cases are decided by an arbitrator, and some cases end up going to court. Whether you go to arbitration or whether you go to court, the personal prejudice or bias of the decision makers comes into play. It doesn't matter whether your case is decided by an arbitrator, a judge or jury; some people have axes to grind.

Some people have the perception that home inspectors are the guarantors of any house they inspect. Others have a strong consumer bias. Lawyers can slant cases to make the home inspector look worse than he or she is. Everyone has twenty-twenty hindsight and when a defect is later brought to light, it seems "obvious" that the home inspector should have discovered it.

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The point of all of this is not to lose hope, give up on home inspection and take a job as a carpenter. Improve your skills, write good inspection agreements, use complete inspection forms, and refer people to outside sources if there are questions. Be sure to do more than merely check boxes on you forms, write out explanations.