

The Virgin Islands Consortium

D.O.J. Files Suit Against Terminix

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ST. CROIX -- Attorney General Claude Walker, at a press conference held on Monday at the V.I. Department of Justice's offices here, announced that D.O.J. has filed a lawsuit against Terminix in connection with the company's fumigation of a Sirenusa condo in March 2015, as well as what Mr. Walker said were at least 70 other instances of illegal fumigation. The announcement was made jointly with the Department of Planning and Natural Resources, whose commissioner, Dawn Henry, also spoke on the steps her department has taken since the incident.

The incident saw members of a Delaware family falling seriously ill after their St. John condo unit in Sirenusa was fumigated by Terminix with fumigants containing methyl bromide, a highly toxic, yet colorless and odorless gas that has been banned since 1984

for indoor use.

The announcement also foreshadows a pending ruling by Judge Curtis Gomez of the District Court of the Virgin Islands, [in a separate suit filed by the federal government](#) against Terminix. Now that the civil suit has been announced, it remains to be seen whether Judge Gomez will compel Terminix to deal with the civil matter before the federal government's own case; the latter of which could gain millions of dollars from Terminix, while the local government -- whose citizens, tourism product and reputation were affected -- wait on court dates that could take months to set.

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Terminix has agreed to pay \$10 million to the federal government to settle the suit. However, that does not absolve Terminix from its violation of Virgin Islands law, said Mr. Walker. "The Government of the Virgin Islands' complaint does not seek relief for violations of any federal law. The complaint alleges a civil violation of the Virgin Islands Criminally Influenced and Corrupt Organizations (CICO) Act, a law that seeks to end sophisticated unlawful activity in the Virgin Islands. The complaint also alleges a violation of the territory's Pesticide Control Act. The complaint alleges that Terminix violated the Virgin Islands' consumer protection laws," he said.

Mr. Walker said the local government, in its action against Terminix, is seeking injunctive relief and civil penalties on behalf of and for the benefit of the Virgin Islands and the people of the Virgin Islands. "The Virgin Islands has an independent, sovereign interest and obligation to ensure that its laws are enforced and that is why we are taking action," he said.

The Sirenusa incident prompted D.O.J. and D.P.N.R. to launch an investigation, which Mr. Walker said uncovered "extremely troubling" conduct by Terminix.

Mr. Walker pointed out that for nearly a decade and on at least 70 occasions, the pesticide company had been engaged in a longstanding pattern and practice of illegally and unsafely using methyl bromide in residences across the Virgin Islands, and deceiving Virgin Islands residents about those practices. The suit also asserts that Terminix personnel in the Virgin Islands had no idea how and when to use the toxic chemical, which was labeled with a warning that the product is a "restricted-use pesticide" as well as a "commodity" or "quarantine" fumigant and is "for quarantine/regulatory use only."

D.O.J.'s lawsuit also alleges that the parent companies are complicit in these illegal practices, in that they knew and approved the use of methyl bromide to fumigate residences in the Virgin Islands, Mr. Walker said. The D.O.J.'s 34-page complaint also accuses senior safety managers at Terminix's parent company for knowing for years that the Terminix employee who fumigated at Sirenusa lacked proper training and basic safety equipment to fumigate those units using methyl bromide, the attorney general said.

In her remarks, Ms. Henry agreed that Terminix should be held accountable for violating any territorial law and the pesticide code. "We launched an investigation and DPNR found out that Terminix had one canister of methyl bromide on St. Thomas and two canisters on St. Croix," she said. "DPNR immediately issued a stop use order to Terminix

that required for them to quarantine the methyl bromide. DPNR later seized that methyl bromide and shipped all the containers off-island for proper disposal.”

Ms. Henry also used the opportunity to issue a warning to residents to refrain from using restricted-use pesticides. “We’re getting information into DPNR that certain individuals are ordering restricted-use pesticides from the Internet,” she said. “Folk are able to get these pesticides into the territory and... trying to apply these restricted-use pesticides on your own, you are not only putting the community at danger, but you are also putting your personal family, individuals in your homes at severe risk. These pesticides are to be applied only by applicators who have the necessary training and equipment to protect... the applicator and the individuals staying in the home.”

Ms. Henry concluded by stating that her department will continue to work with the A.G.’s office “to ensure the health and safety of our residents and our environment.”

To date, no other civil action has been filed in the Virgin Islands against Terminix, according to Mr. Walker. He also said that it took some time to file the suit partly because Terminix was attempting to quash D.O.J.’s subpoenas. When Terminix finally complied following two orders from Judge Harold Willocks, “We received thousands of documents from Terminix which we reviewed. So we haven’t been dilatory in terms of trying to get to the bottom of this,” Mr. Walker said.

Scientific studies have revealed that methyl bromide has deleterious effects on people’s health and is highly destructive to the ozone layer.