

WPCC wins suit over Phifer LRC construction

By JOHN McNAMARA
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A Burke County jury has awarded Western Piedmont Community College more than \$300,000 in damages to repair structural and appearance problems at the school's Phifer Learning Resource Center.

The award ended a two-year legal battle between the college and Morganton architect Robert Salsbury, who designed the building in 1988.

The total damage payment could exceed \$400,000, however, because the jury awarded interest in its decision. The interest would be added to the \$329,584 award, and dates back to Sept. 12, 1994, the date the lawsuit was filed in Burke County Superior Court.

John Alexander, counsel to WPCC, said

the jury deliberated less than two hours, including about an hour late last Tuesday afternoon and about 45 minutes on Wednesday morning, before returning the verdict. The trial, with Burke County Superior Court Judge Forrest Ferrell presiding, started on Monday, Dec. 2, and ran through Thursday. Testimony picked up again on Monday, Dec. 9, and ended the next day.

The college, which retained Statesville attorney Doug Eisele to handle the courtroom arguments, sued Salsbury and general contractor L.P. Cox Company of Lee County after the exterior of the learning center became stained with calcium deposits and walls adjacent to the elevated walkways began to separate.

Alexander said an examination of the areas by engineers hired by WPCC showed the

drainage system installed to handle rainwater was insufficient, causing it to seep through mortar and leave calcium deposits on the side of the building. In addition, the wall had not been properly tied together or to the deck surface.

"This was a code violation to be constructed the way it was," Alexander said. "It was also a potential safety hazard."

During the two years of pre-trial preparations, L.P. Cox successfully brought a subcontractor, David Allen Company of Wake County, into the suit. But on Nov. 26, days before the case went to trial, WPCC and the contractors reached an undisclosed, out-of-court settlement that released them from the suit, leaving Salsbury as the lone defendant.

"As our engineers investigated the case, it became apparent the root of the problem was

in the design," Alexander said. "There was no need to continue to with the contractors as part of the suit."

Alexander said the college received a "nominal" settlement from the contractors. That settlement will have to be ratified by the college's board of trustees at its next meeting.

For his part, Salsbury said Monday morning he had no comment on the suit or jury award.

"I am just glad its over with and the college can get on with fixing the problem," he said.

Alexander said the college will have to bid out contracts to repair the work. The repairs would include tearing down at least part of the wall and rebuilding it, along with tearing up walkways to install a more complex drainage system.