

After You Finish Work – Mold Starts to Grow

The legal implications – how to protect yourself from mold-related liability

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The Growth of Mold Claims

- In 2001, just over \$1 billion paid out by insurance companies in mold related claims.
- In 2002, \$2.5 billion paid out.
- In 1998, 129 residential insurance claims files nationwide classified as “mold.”
- In 2003, 519 residential mold claims filed in Ohio alone.
- In 2008, the GAO issued a detailed mold report

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The Growth of Mold Claims

- “Mold is just like whiskey, women, wine and cigarettes, okay, it’s there. One or two of any of them ain’t going to hurt you. But if you overindulge in any of them you’ve got issues.”

The Growth of Mold Claims

- Media coverage and media hype
- Societal intolerance of health risks
- Building materials & methods; solve one problem/create another?
- Potential for large monetary verdicts and settlements

Target Defendants

- Builders
- Contractors/Remodelers
- Architects, engineers, design professionals
- HVAC personnel
- Manufacturers, suppliers & installers of building materials
- Property managers
- Insurers
- Remediators
- Inspectors

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The Plaintiffs

- Homeowners
- Residential tenants
- Office tenants
- Subrogated insurance companies
- Defendants/third party plaintiffs

Builders\Contractors

- Negligence
- Breach of Contract
- Breach of Warranty

The Tort of Negligence

- Duty
- Breach of duty
- Proximate cause
- Damages

Contract Claims

- Contractual obligations
- Breach
- Consequential damages

Warranty Claims

- Warranty representations
- Breach
- Consequential damages

The Best Defense

- Do everything you are supposed to do right.

Defense Strategies

- Define your scope of work – your “duty”
- Seek clarification for “joint responsibility”
- Then, do everything you are supposed to do right.
- Document & Retain

Added Protection

- Entity selection
- Insurance coverage

The Claim is Still Made

- Notice to your insurer
- Call your attorney
- Preserve project file
- Do not “do something dumb”

If Suit is Filed

- Insurer's duty to defend
- Initial pleadings
- Discovery
- Dispositive motions
- Settlement
- Trial

Recap

- Claims are out there
- Define your job clearly
- Do that job only
- Don't go "bare"

Questions?

- For more information, please visit our web site at www.rendigs.com.

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