



Law Offices
METHFESSEL & WERBEL
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CASE ALERT

December 13, 2002

METHFESSEL & WERBEL'S ERIC HARRISON CO-AUTHORS ARTICLE PUBLISHED BY MEALEY'S ON THE HANDLING OF MOLD CLAIMS

The adjustment of toxic mold claims is perhaps the fastest-growing area of concern to the insurance industry. Following M&W's comprehensive seminar on the subject in March 2002, we have dedicated the resources of our complex litigation team to keeping our clients apprised of mold-related claim and litigation developments across the country.

Attached is a copy of "How To Identify A Mold Consultant Who Can Support Your Case," an article co-authored by Eric Harrison of our complex litigation team and published in the November 2002 issue of *Mealey's* Litigation Report. We hope you will find the article helpful in the handling of these potentially explosive (though often exaggerated) claims.

The infamous Ballard case – currently on appeal – effectively made the state of Texas "ground zero" for mold claims. Recently the Texas Medical Association's Council on Scientific Affairs issued a report concluding that current medical literature does not support most claims of adverse health effects arising out of inhalation of mold spores in water-damaged buildings. Only in rare cases, concludes the report's authors, will exposure to mold in an indoor environment cause or exacerbate a significant medical condition. Please contact us for a complete copy of the TMA Report.

With respect to coverage for mold claims, our office is currently involved in litigation over the applicability of the concurrent causation exclusion contained in most MSO policies. This is an issue of first impression in New Jersey which could have significant implications for the adjustment of mold claims across the country.

Finally, we would like to remind our clients of the importance of ensuring that water damage and mold remediators be retained not by a responding first party or liability carrier, but by the insured. While you may wish to provide a list of recommended contractors, it is very important that the insured hire the contractor directly. Otherwise the carrier runs the risk of assuming liability for the acts or omissions of a negligent contractor.

Remember – in today's litigious climate, every water damage claim is a potential mold claim. We encourage our friends and clients to contact us with any questions that may arise during the investigation and adjustment of these claims.