



RISK MANAGEMENT BRIEFING

November 2004

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GUY HURLEY BLASER & HEUER, LLC

A "one-pager" from GUY HURLEY BLASER & HEUER
designed to help you navigate a challenging insurance-related issue

Does your company undertake construction projects? If so consider these two questions: Are you at risk from claims alleging illness or damage resulting from exposure to mold? Are you insured for this risk? Chances are, "Yes" and "No" respectively, are the correct answers.

We can say with assurance, that mold-related claims against contractors, as well as property owners and developers, are proliferating, and that insurance coverage for those claims is fast disappearing.

Furthermore, mold: its affects on people (highly debatable) its prevention/eradication (well nigh impossible) and its control (feasible and laudable) is being talked about all over the construction industry. From the pages of magazines such as AGC's *Constructor*, which included a 14-page story in its May 2004 issue, and *ENR*, which ran a recent editorial, to a panel discussion sponsored by AGC's Greater Detroit Chapter, contractors are getting good advice on how to deal with the mold issue.

We encourage you to learn more about all aspects of the debate and discussion. We especially recommend the *Constructor* article and seminars such as Greater Detroit AGC's. They discuss the science of mold in more depth than we could ever hope to. But in these few paragraphs, we'll suggest risk management tips for avoiding an unpleasant moldy surprise.

1. Find out if you're covered, by checking your policies. Either call your agent, or leaf through your Commercial General Liability and Umbrella policies. If you have a mold exclusion, it's probably a single-item endorsement and won't be hard to spot. (It may also refer to fungus, microbial matter or spores) And don't assume you're automatically covered if you don't have a specific exclusion. The "Total Pollution Exclusion" found on most Umbrella and CGL policies is sufficiently broad (it includes "irritants") as to exclude many mold-triggered claims, even without the mold exclusion.

2. Investigate the cost/availability of coverage. Some insurance companies offer Contractors' Pollution Liability coverage without a mold exclusion. But be prepared. They'll ask you lots of questions about your mold-related loss control practices, which brings us to...

3. Manage the mold risk -

- **At the site** - This is best accomplished by minimizing the likelihood of water intrusion, and preparing to take aggressive and prompt remedial action if water does intrude.
- **In the contract** - Whether you're a sub or a general contractor, look to include contract language acknowledging your absence of insurance coverage for mold claims, and holding you harmless for damages arising from those claims.

If you're interested in a quotation for Contractors' Pollution Liability insurance with the possibility of Mold coverage, give us a call or an e-mail response. We'll be happy to point you in the right direction if we can.

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