

On April 8, 2005, Vincent J. Paluzzi, Chair of the Firm's Construction Law Practice subgroup, presented a seminar entitled "Defending Mold Claims" at the Atlantic Builders Convention in Atlantic City, New Jersey. The following is a synopsis of Mr. Paluzzi's presentation. If you would like to receive a copy of the 200+ page booklet of substantive information and materials distributed at the seminar, please contact Mr. Paluzzi at 609.989.5033 or vpaluzzi@sternslaw.com.

DEFENDING MOLD CLAIMS

I. INTRODUCTION

- A. Fungus Is Among Us
Discusses the science of molds and fungi and how they enter the indoor environment in easy to understand terms.
- B. Toxic Mold? Fact or Fiction?
Discusses the beneficial uses of mold and applies existing scientific facts to allegations of "killer molds".
- C. Is Household Dust the Real Culprit?
Reviews very recent studies confirming the presence in household dust of toxic chemicals and compounds from common consumer products.

II. MOLD LEGISLATION

- A. Pending Legislation
Reviews and summarizes pending legislation, nationally and in New Jersey, including New Jersey Senate Bill 1249 (the "Toxic Mold Protection act of 2004") and H.R. 1269 (the "United States Toxic Mold Safety and Protection Act of 2005").
- B. Existing Legislation
Discusses the extent to which existing New Jersey statutes and regulations regulate indoor mold. Also addresses the impact of the impact of the New Jersey Supreme Court's recent 2005 decision in DKM v. Tp. of Montgomery.

III. INSURANCE COVERAGE FOR MOLD

Reviews the existence and extent of insurance coverage for mold under homeowners, commercial general liability and commercial property

insurance policies based on customary exclusions, as well as new mold-specific exclusions now utilized in New Jersey as a result of NJ DOBI bulletin No. 03-24, issued September 11, 2003.

IV. STRATEGIES FOR DEFENDING A MOLD CLAIM

- A. Anatomy of a Mold Claim
Analyses causes of action asserted, target defendants and damages sought in typical mold claims.
- B. Causation, Causation, Causation
In depth discussion of primary strategies for defending a mold claim by attacking causation on several levels.