



### **A Message from Dennis**

Hey, what can I say? Daylight savings, warmer weather, some flowers will soon start to pop their head above ground and blossom. All signs of spring, and all signs that soon it will be summer.

I love the seasons. I love spring, summer, and fall. Winter too. (Love it, that is, when I'm on a Caribbean island.)

We got lucky this year. It was a fairly mild winter. Not a lot of snow. And even, as I write this, a Nor'easter is brewing for next week, spring is just a few short weeks away.

All that being said, spring is a time of renewal. Not only in nature, but in us. So I encourage you to remember what the famous American business philosopher Jim Rohn said, "If you plant in the spring then you'll get harvest in the fall."

Now is the time to plant the seeds of a new and better life, business, career. And to quote Jim again, "Reaping and harvesting belong to planters."

And most important, learn every day to ETJ — Enjoy The Journey — because, after all, that is all we have. So have fun today no matter what.

~ **Dennis**

### **Reputational Risk**

No matter which industry you're in, your reputation is everything. If your reputation is damaged, you'll see an immediate loss of revenue, as customers become wary of doing business with you.

And there are other repercussions, too. Your employees may get demoralized and quit. You may find it hard to hire good replacements, as potential candidates have heard about your bad reputation and don't want to join your company. Suppliers may start to offer you less favorable terms. Advertisers, sponsors or other partners may decide that they no longer want to be associated with you.

Reputational risk can take the form of a major lawsuit, an embarrassing product recall, negative publicity about you or your staff, or high-profile criticism of your products or services. And these days, it doesn't even take a major event to cause reputational damage; it could be a slow death by a thousand negative tweets and online product reviews.

"As most consumers are aware, Yelp is based on user-generated reviews for local businesses. Getting negative reviews on Yelp can be especially bad for small businesses," said Pierre Zarokian, CEO of Reputation Stars.

What can you do about Yelp feedback gone wrong? Pierre's advice is to avoid posting direct responses to sites such as Yelp, PissedConsumer.com and RipOffReport, as the additional posts will simply drive the stickiness of the bad results even more. Better to try and resolve the complaint in private, and to set up other locations such as your own website or your Facebook page as a location for customers to post their positive experiences (or to let you know about their genuine concerns or complaints.)

(Sources: <https://business.tutsplus.com/tutorials/the-main-types-of-business-risk--cms-22693>;  
<https://www.forbes.com/sites/cherylshappconner/2013/07/07/how-reputation-management-drives-small-business/#30ef4aaf61e0> )

## Damage From Mold? It May or May Not Be Covered

Scenario: Nine years after plumbing was installed in a commercial building, an incorrectly installed pipe caused a small leak that went undetected all those years. The leak caused mold, and substantial water damage to the structure, resulting in a \$60,000 claim. Is the mold damage covered or not covered?

Most likely it will be denied. Mold is a fungus. Some species of mold are considered hazardous and can produce chemicals called mycotoxins, which can cause moderate to severe illness in people who are sensitive to them or if they are exposed to large amounts in the air. These mold species are considered pollution and there is a specific mold, fungus and bacteria exclusion/limitation in all currently used commercial general liability policies.

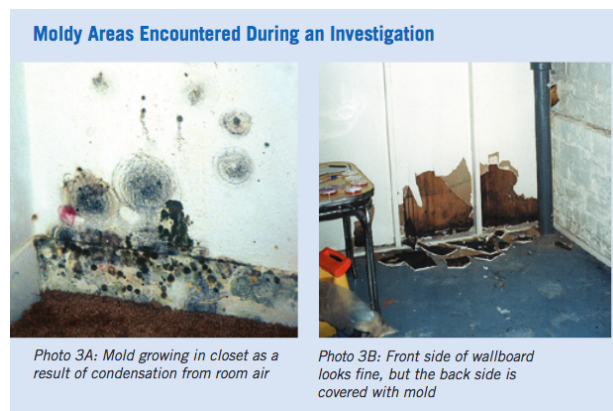


Photo credit: Terry Brennan 3A; Stephen Vesper, Ph.D. 3B  
<https://www.epa.gov/sites/production/files/2014-08/documents/moldremediation.pdf>

Whether mold contamination is covered under your policy will depend on the specific policy language and the cause or causes of the mold contamination. Some property policies are "specified peril" policies, which may cover mold contamination if you can prove that it is caused by one the listed "perils" or causes.

Other property policies are "all risk" policies, which may cover mold contamination, unless the insurer can prove that the cause(s) or the mold contamination itself is excluded in the policy.

Most property policies have a long list of exclusions for damage caused by mold, dry or

wet rot, corrosion, pollution, wear and tear, deterioration, faulty workmanship and materials, construction defect, and the like. To make matters more complicated, some policies have limited "exceptions" to the exclusions – kind of like a double negative – that may provide some very limited coverage for mold contamination.

As a general rule, most insurers attempt to exclude coverage for mold contamination associated with long-term leakage, moisture or water intrusion from a construction defect, wear and tear, deferred maintenance or poor repairs.

Most insurers will acknowledge coverage for mold contamination associated with accidental discharge of a closed plumbing system – as long as you take reasonable steps to protect and repair the property after you discover the damage. Never speculate or guess about the cause(s) of the mold contamination or suggest to or agree with your insurance company that the mold must have been around for a long time or that there must be some hidden leak somewhere. Wait until all the investigation is completed before you acknowledge or agree as to the cause(s) of the loss with your insurance company.

And if there is a third party claim, in most liability policies, your insurer agrees to defend you if you're sued, and to reimburse, i.e., indemnify you if get hit with a judgment. The duty to defend you is much broader than the duty to indemnify you.

Complicated . . . we know. So call us. Let us help you to understand what remedies may be available to you.

(Source: <http://www.uphelp.org/pubs/mold-contamination-insurance-coverage-101-basics>)



*"There are risks and costs to a program of action. But they are far less than the long-range risks and costs of comfortable inaction."*  
~ John F Kennedy