

# Fungus And Bacteria Exclusions Increase Potential Markets

According to David Dybdahl, American Risk Management Resources Network LLC, fungus and bacteria exclusions have increased the potential market for environment insurance 1,000-fold since 2004. Most independent insurance agents are missing a great opportunity to increase their income, create a competitive advantage and provide value to their customers.

Between 2001 and 2004 insurance companies reacted to an explosion of toxic mold claims by universally excluding any loss even related to a speck of fungus and bacteria in all commercial and personal lines insurance policies. Fungus and mold exclusions are essentially pollution exclusion on steroids. As a result of these extremely onerous exclusions, any firm that has loss exposures related to water damages or bacteria outbreaks needs specially adapted environmental insurance to fill the coverage gaps in all property and liability insurance contracts. Universal fungus and bacteria exclusions drove the need for complex environmental insurances from the country's worst hazardous waste sites to Joe the plumber on Main Street, U.S.A., and any other stakeholder in commercial property.

According to research conducted by ARMR.Network, before insurance companies universally excluded fungus and bacteria losses, they were incurring losses from these sources approximating the frequency and severity of the peril fire. To help put the mold-related loss exposure into perspective, about 4,000 certified mold remediation firms perform about 350,000 mold-related damage restorations each year.

With this many technically uninsured mold losses, many insurance agents and consumers are lucky that claims adjusters and restoration contractors tend to avoid the "m" word in claims scenarios instead choosing to code losses as water damage for expediency (even when mushrooms are growing on the walls a few days after the fire was put out).

This status quo works for many insurance consumers until there is a large loss, in which case the claims adjuster may decide to stand behind the mold exclusion to the letter. For example, The Appellate Court of Illinois, Second District recently found for American Family Mutual Insurance Co. when they successfully denied mold damages as a result of a covered fire loss. This case follows a national trend — insurance companies are almost always successful in denying mold-related losses under these far reaching exclusions.

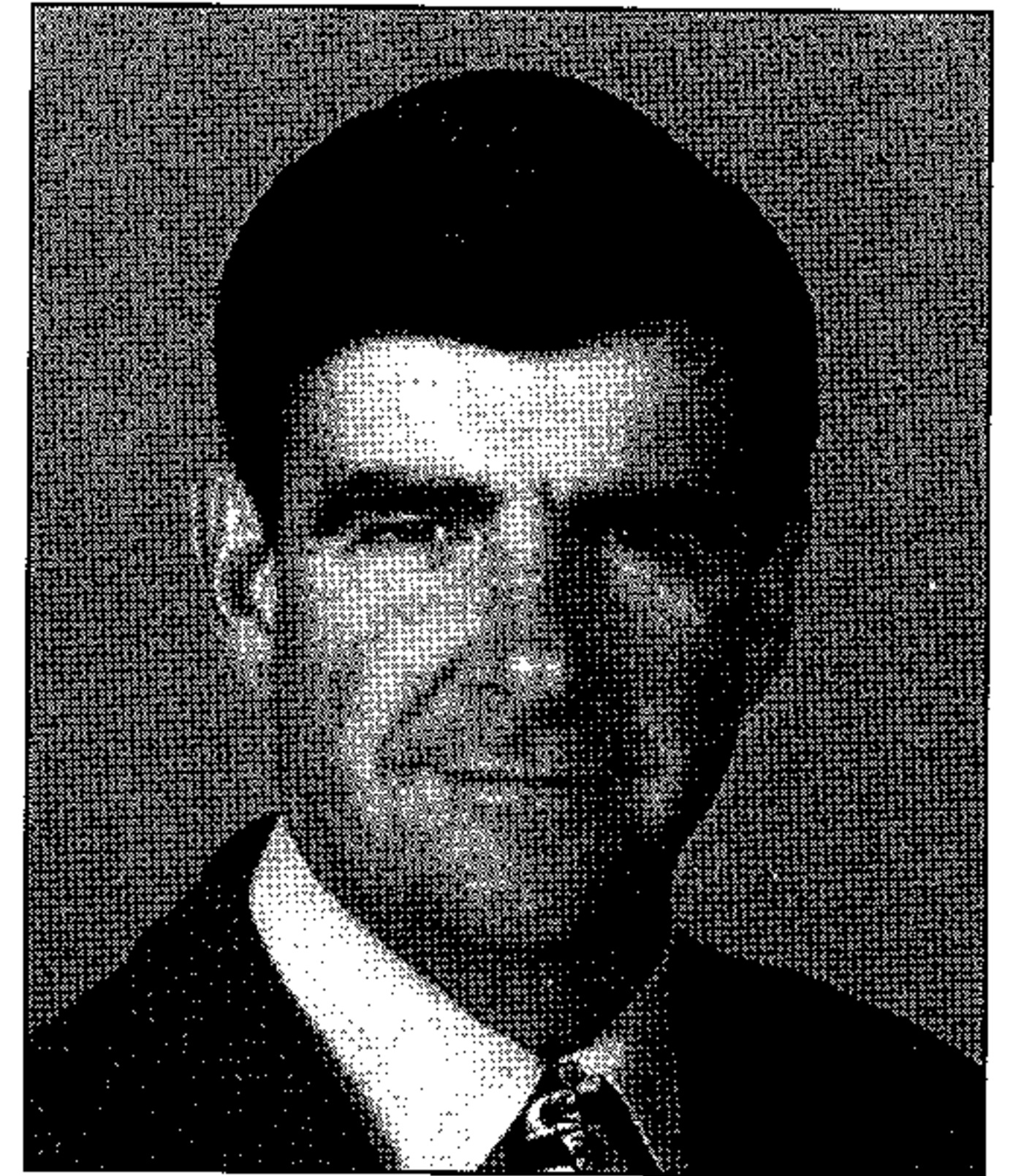
Insurance agents need to remember three key points when advising their customers on this subject.

- The exclusions cut through all the coverage parts in both the property and liability policies.
- In sharp contrast to traditional pollution exclusions, if any amount of mold or fungus is involved in any sequence in a loss, these exclusions have the potential to void the entire policy form.

- Water or high humidity combined with drywall and other common building materials will produce mold growth within three days.

Most agents picked up on the need for environmental coverage for mold remediators once fungus exclusions were introduced. However, very few "connected the dots" to identify general contractors, plumbers, roofers, glazers, drywall contractors, property managers, HVAC contractors, apartment complex owners, condominiums, food services vendors and suppliers, health-care providers, shopping centers, developers, lenders, commercial and office buildings as needing customized environmental insurance to fill the coverage gaps that exist.

To illustrate this point, last year ARMR.Net's largest reported mold-related loss was \$10,000,000. The loss was caused by a plumber installing 200 toilets as part of an apartment complex project. Six months after the project's completion, every other toilet was leaking because of a \$1.25 wax seal. Each leaky toilet caused a \$100,000 remediation problem. These leaks triggered the pollution exclusion, the fungus exclusion and the bacteria exclusion in all of the policies carried by the stakeholders in the project. Working with a retail insurance agent, ARMR.Net had procured the building's owner a specially adapted environmental liability policy which included no-fault coverage for the restoration costs and loss of rents. The customized ARMR.Net policy paid to limits, but the owner was still short \$6,000,000 on the property loss before the toxic mold bodily injury claims rolled in from the tenants. The allocated premium for this project under a Contractors Pollution Liability policy for either the general contractor or the plumber would have measured in the hundreds of dollars. Neither firm had this coverage in place, which is certainly not a good customer service scenario for their insurance agents.



David Dybdahl

*If you'd like to learn more about environmental loss exposures, pollution exclusions and the more than 100 forms of environmental insurance that can be used to cover them, attend the ILAW's "Coverage Gaps Created By Mold, Bacteria and Pollution Exclusions" workshop, which will be presented February 25th in Appleton or February 26th in Brookfield.*

*David Dybdahl, CPCU, ARM, MBA, is one of the country's leading experts on environmental risks and insurance. He will lead these sessions.*