

# ARMR.Network Environmental Practice

## Memorandum

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### Your Work + Anti Concurrent Causation = Contractors Have No Coverage for Mold Related Losses

ARMR.Network Your Environmental Insurance & Risk Management Experts

This is the first communication in a series designed to create competitive advantages for insurance agencies utilizing *ARMR.Network* as their Environmental Practice Group and environmental insurance wholesaler. For more information on *ARMR.Network*, please visit [www.armr.net](http://www.armr.net).

#### THE OPPORTUNITY FOR INSURANCE AGENTS & BROKERS

Mold exclusions have far reaching implications for insurance brokers and their clients. The case example of a litigated mold loss attached is eye opening. The effects of mold *related damage* exclusions on coverage are not well understood and the coverage litigation is just starting to develop. Early indications are:

- o Court rulings on mold exclusions are favoring insurers
- o insurance agents have not provided adequate advice or solutions to their clients
- o even when insurance is sold to cover mold it contains material flaws

#### THE INSURANCE PRODUCTION STRATEGY

Any firm involved with buildings is a prospect. Without a customized environmental insurance policy offered by *ARMR.Network*, your clients and prospects are exposed to uncovered claims. Most environmental insurance policies sold to insure for mold related damages are inherently defective. *ARMR.Network* can help you understand the complex coverage issues and effectively write new business.

#### CASE EXAMPLE (see attached ruling)

Knoll Construction Inc. was responsible for constructing a condominium with a defective roof. The defective roof allowed water to leak into the condominium; mold developed which in turn damaged other parts of the condo. The court determined that the condo itself was Knoll's work product. Defendant (Insurer) noted that the term "occurrence," as used in CGL policies, has been judicially defined to refer only to damage caused to the property of others, as opposed to damage to an insured's work product. **Because the property damage was to Knoll's work product alone (i.e., the condominium), the insurance company argued, it did not constitute damage caused by an occurrence within the meaning of the policy.**

#### ERRORS & OMISSIONS WARNING

Beware that most environmental insurance policies contain material coverage defects for mold related damages. For example, most CPL policies contain "damage to your work" exclusions which have onerous implications for insureds. Even if the builder in this case had purchased CPL coverage, many CPL policies contain this exclusion which could have resulted in coverage declination.

#### SUMMARY

Most General Liability and Contractors Pollution Liability policies contain "damage to your work" and "damage to your product" exclusions. Many CPL policies also exclude losses caused by materials supplied by the insured, which would be the entire building in the case attached! Many owners and developers are totally unaware of these coverage restrictions and assume their additional insured status on the contractors CGL policy covers them.

Note: This Michigan court case occurred before mold exclusion endorsements were instituted in all CGL policies. Many mold exclusions used today in Property and CGL policies are very broad and often contain **anti-concurrent causation clauses** that exclude the entire claim without regard to when mold arose in the chain of events that caused damage.

Call an *ARMR.Network* today to make sure your book of business has the state of the art environmental coverage. *ARMR.Network* offers CE courses addressing environmental risk management and insurance issues. To arrange a course in your office, please contact any *ARMR.Network* office.

