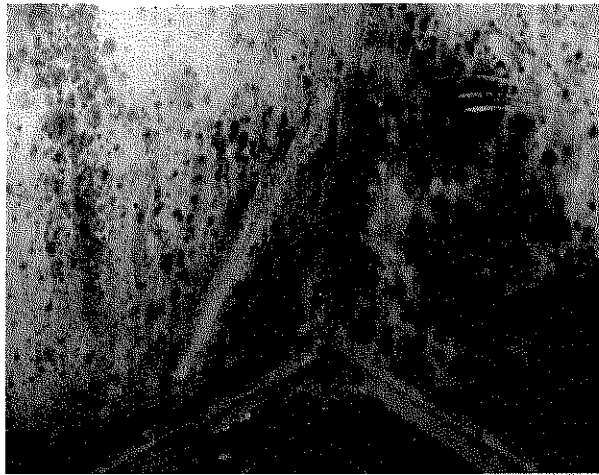


# **TOXIC MOLD SPAWNS SICKNESS, LAWSUITS – AND DEBATE**



*By Kathryn Quigley*

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# Toxic mold spawns sickness, lawsuits — and debate

As homeowners fight mold in court, the CDC says serious illnesses are rare.

All she wanted was a dishwasher. A nice new one to go with the wood cabinets in the remodeled kitchen of her Boca Raton home. But when Terri Slomin started using the black General Electric model around Thanksgiving 2001, something didn't seem right.

"I just didn't like the way that it was washing dishes," Slomin said.

She called a repairman, who came to her home 16 days later. When he did, he found a crack in the dishwasher had caused a leak. A big one.

The repairman left, and Slomin's husband, Chad, decided to take apart the remodeled wood cabinets to make sure they had not been harmed.

There, lurking in the cabinets and the shelves, was mold. Toxic mold. A green slime that turned black. Tests soon revealed high levels of mold in their home, and they got a clue about what might be causing their watery eyes, coughs and rashes.

The family moved out of the home Jan. 2 and is living in an apartment, while still paying the mortgage and waiting for the home to be cleaned up. The Slomins haven't sued anyone, but they do have a lawyer. And a toxicologist. And doctors.

"All we wanted to do was buy a darn dishwasher," Slomin said last week.

Their leaky dishwasher and slime-covered cabinets led the family of four into a moldy nightmare — one experienced from mansions in Beverly Hills to Spanish stucco homes in Boca Raton. From celebrities such as Ed McMahon and Erin Brockovich to working families in South Florida, toxic mold is changing lives for the worse.

Toxic mold — different from "good" mold in cheese and medicine — produces mycotoxins, which prevent the growth of other organisms.

Mycotoxins, produced by toxic mold like *Stachybotrys*, can work their way into a person's nose, lungs, throat and eyes. Those susceptible to mold can develop rashes, bloody coughs, sinus infections, sore throats and even memory problems.

But is there a definite link between mold and ill health? The federal Centers for Disease Control urges caution. Case reports of serious illnesses caused by mold are rare, according to the CDC. And a causal link between the presence of the toxic mold and these conditions has not been proved, it says.



BOB SHANLEY/Staff Photographer

**Getting rid of the mold:** Workers remove items from a mold-infested home in Boca Raton Thursday in preparation for removing the mold.

## Litigation is increasing

Some lawyers and experts see a very strong link. And when property is affected and people become ill, litigation often follows. An estimated 9,000 toxic mold cases have been filed in the United States in the past few years.

South Florida lawyers are taking on more mold cases as more clients come to them with mold-infested houses and physical symptoms.

Madison McClellan, a partner in attorney Willie Gary's firm in Stuart, said he has handled about 30 mold cases and has seven active cases.

"We turn down a lot more cases than we take," he said.

One of the best-known mold cases was the Martin County courthouse, which had to be closed in 1992 after so many employees became sick.

Mold litigation can mean some very big payouts, like a \$32 million verdict to the Ballard family in Dripping Springs, Texas. A leak in their 22-room mansion caused toxic mold to grow, and the family became sick.

In California, attorney Alexander Robertson IV has more than 1,000 mold cases. One of his clients is Erin Brockovich, the legal crusader who spawned a hit movie based on her life.

Ed McMahon, the former sidekick of Johnny Carson, sued his insurance company in April after he and his wife, Pamela, became sick and their dog died. A pipe leaked in the McMahons' mansion in the summer of 2001, flooding their den. That resulted in the growth of toxic mold throughout their house, according to their lawsuit.

The McMahons continued to live in the house during the cleanup, which they claim was not done correctly. It turns out the largest concentration of mold was in the couple's master bedroom, where they had been sleeping all that time.

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*By the time they discovered the leak, the toxic mold became airborne and spread everywhere - their clothes, mattresses, linens, and toys.*

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## 'It can happen to anybody'

A similar situation happened to the Israelian family of Boca Raton. Marcie and Arie Israelian moved into the Saturnia development in April 1999. They claim, in a recently filed lawsuit, that the plumber never connected one of the pipes in their children's bathroom. Therefore, whenever their young son or daughter took a bath, water seeped into the drywall.

Their baby son, Daniel, spent the first years of his life in hospitals and doctors' offices with respiratory problems. Their daughter, Talia, woke up with a barking cough every night.

By the time they discovered the leak, the toxic mold had become airborne and spread everywhere — their clothes, mattresses, linens and toys. The family moved out in November 2001. They are feeling better, but their symptoms are not completely gone. They are suing their builder and plumber while remediation workers in spacesuit-like outfits clean up their home.

"It can happen to anybody," Marcie Israelian said.

The builder, G.L. Homes of Boca Raton, denies in court documents that the company harmed the family or disregarded their safety. They claim they asked to test the Israelian home and were refused. Instead, the family got its own tests done, which the home-builder claims allowed the mold to grow even longer before being detected.

Scott Gelfand is the Boca Raton attorney representing the Israelians and Shirlee Daily, another woman who filed a lawsuit against G.L. Homes claiming she was sickened by toxic mold.

"These people have been through so much, and they need someone to take responsibility," Gelfand said.

Florida is especially fertile ground for mold problems because of the hot, humid climate, he said. Often, the mold starts after a leak. But it isn't discovered right away. Instead, it lurks behind the walls.

Mold has been around since the beginning of recorded time. But the rise in toxic mold litigation has occurred during only during the past decade or so.

Gelfand and other attorneys point to the Martin County courthouse case as a landmark in mold lawsuits. It was one of the first "sick building" cases that involved mold. The county sued Centex-Rooney construction company after employees became sick. The county claimed construction defects caused moisture problems in the courthouse, which resulted in mold growth. The lawsuit went to trial in 1996, and Centex eventually paid the county more than \$17 million.

Besides opening the door for successful mold litigation, a judge's ruling during the trial also made a difference. The judge allowed experts to testify about the connection between mold contamination and health problems.

Richard Lipsey, a toxicologist from Jacksonville, is an expert in toxic mold. He testifies about 50 times a year — for plaintiffs and defendants. He also tests homes suspected of being contaminated with mold, such as the Slomins' house in Boca Raton.

"Most mold you see in your house is harmless," he said.

But if *Stachybotrys chartarum* gets in — a toxic black mold — a family might have to move out. The mold can be especially troublesome because it gets into furniture, sheets, towels and other porous material. Such other toxic molds as *Aspergillus* and *Penicillium* are dangerous, too.

Most mold problems in homes start with leaks — like McMahon's flooded den or the Slomins' broken dishwasher.

The most important thing families can do to prevent the growth of toxic mold?

"Dry it out," he said.

Dry the leak within 48 hours, Lipsey said. Set up fans. Do anything to get rid of the moisture. To clean up most harmless molds, a cup of bleach and a gallon of water will do just fine.

Lipsey was busy last year on mold cases and expects to be even busier this year. He doesn't see the flow of toxic mold lawsuits slowing down.

But Al Bressler does. Bressler is senior vice president with Marsh Environmental Practice, part of the Marsh insurance brokerage firm.

Many lawyers liken the increase in mold lawsuits to the mountain of asbestos cases that have flooded the courts in the past few decades. Bressler doesn't see it that way.

For one thing, there was a much clearer link between asbestos and cancer, he said. The link between mold and illness is much more tenuous, he said. For another, the companies sued in asbestos cases, such as the now-defunct W.R. Grace, had "much deeper pockets" than the home-builders or insurance companies being sued for mold.

"Mold's been around since humans were on this planet," Bressler said. "You can't sue God."

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BOB SHANLEY/Staff Photographer

Marcie and Arie Israelian say a pipe in a bathroom of their home in Boca Raton caused a toxic mold outbreak