

Mold! Black mold! These words can strike fear in the mind of any property manager. Usually, when property management and mold meet it is a dirty mess. Fortunately, a recent decision of the Ohio Supreme Court makes it easier for a property manager to clean the mess. The case is *Terry v. Caputo* decided late in 2007. In this case, the Court ruled that any person who claims she was injured due to exposure to mold must not only prove through a medical doctor's testimony that the type of mold present is capable of causing the person's injury but also that the type of mold present did in fact cause the claimed injury.

The facts of *Terry v. Caputo* were that employees reported headaches and other physical problems that they attributed to mold and mildew that had accumulated at their workplace. The employees sued, among others, the property management company, alleging negligence in allowing the mold to grow. The employees' medical expert testified that the mold present could have caused the health problems experienced by the employees; however, their medical expert failed to examine the employees and could not testify that the employees *actually* suffered from the specific health problems alleged.

The Supreme Court ruled that this lack of specific causation testimony from the employees' medical expert was fatal to their case.

So what does this all mean? If one of your tenants claims that she is suffering from any injury that she attributes to exposure to mold, she will have to produce more than someone who testifies that mold is present in the apartment. The tenant will have to obtain a medical expert to testify that the mold did in fact cause her injuries. Now that a tenant is required to hire a doctor to prove that (1) the mold is capable of causing her injuries and (2) the mold in fact caused her injuries, she might be less inclined to pursue such a claim.