

March 2003

The Potential Hazard of Mold Litigation

Local attorney will discuss the potential hazard with remodelers

Jeff Harmon, an attorney from the Northern Kentucky area will speak to members and guests of Ohio Valley NARI on Thursday, March 13, 2003 at The Design Center. What will he be speaking to us about - The Potential Hazard of Mold Litigation. This is an area that all remodelers need to understand because ignorance is not a defense.

Thirty years ago it was asbestos. Then lead, latex and MTBE became the next generation of toxic tort litigation. Today, toxic mold cases are mushrooming and have blurred the traditionally separate fields of toxic tort, construction defect and insurance bad faith litigation.

According to a recent Wall Street Journal article, Farmers Insurance, which has 7% of the U.S. homeowners insurance market, estimates that mold claims will cost it \$85 Million in 2001 alone. That estimate was made prior to the \$32.2 million jury verdict in *Ballard v. Fire Ins. Exchange*. Michael Thompson,

Chief Executive Officer of Engineering & Fire Investigations, a Houston-based subsidiary of claims specialist GAB Robins North America, Inc., says his firm did not have a single microbiologist on its staff a year ago. Last month, it hired its ninth. "It has inundated the residential marketplace. It's going to wind up being a multi-million dollar industry for us, and it was zero 18 month ago." A headline in *Lloyd's Insurance Today* on June 12, 2001 reported that rising toxic mold claims in the U.S. are predicted to drive homeowners' insurance premiums up by at least 10% by the fall of 2001.

Some commentators have suggested that toxic mold may be analogous to asbestos property damage or lead paint claims, but that mold-related personal injury claims are dissimilar to asbestos personal injury claims of decades ago. John J. Delany, III of Delany & O'Brien in Philadelphia agrees that toxic mold is a very serious toxic tort, but argues that there are several factors that militate against analogizing mold with asbestos personal injury claims. According to Mr. Delany, these factors include weak medical causation evidence, lack of published exposure standards, non-repetitive corporate defendants and the current failure of the plaintiff's bar to mobilize.

Although it is unclear whether mold will equal the \$21.6 billion paid to date by the insurance industry for asbestos claims, what is clear is that recent jury verdicts around the country have "rung the bell," attracting the attention of insurers, lawyers, doctors, the media and the public.



Call to RSVP

What: Membership Meeting
When: Thursday, March 13, 2003
Where: The Design Center
10816 Millington Court, Blue Ash
Time: 6:30 p.m.
RSVP: Ohio Valley NARI at (800) 498-NARI
Cost: \$25 members/\$30 nonmembers

Who's taking over after you?

Remodeling businesses are often family owned and operated. Sadly, many such owners fail to plan for business succession. This is one of the main reasons why recent statistics show that 70% of family-owned businesses fail to reach the second generation, and only 13% continue to the third. Avoiding this dire fate comes down to three simple words: business succession planning. Whether you wish to keep your remodeling business in the family or sell it to an outsider, you need to ensure a secure retirement for yourself and a prosperous future for your company. And doing so calls for a careful, methodical business succession plan.

Ask the Tough Questions

Ironically, the close family relationship that builds and sustains a business often leads to its demise. How? The company's identity is usually linked to its owner's personal and professional relationships. Succession planning will probably change these connections, leading to potentially controversial situations — especially with family members — if not handled properly. That's why having a formal process that includes everyone's opinions and concerns is vital. Some questions you'll want to consider

as you formulate your succession plan include:

- Do I want my business to be a lasting legacy for me?
- Should I sell the business to an outsider or let my children take over?
- Should I turn over the company's reins to a family member regardless of his or her work history, or should I require that person to have some construction experience?
- How will I fund my retirement, and how can I ensure that this method will guarantee my financial security?

These are not unusual concerns. As owner, you likely started your company and built it from the ground up. And even if you aren't your business' founder, you surely contributed to its present state. So instead of seeing retirement as a sudden end, think of it as a natural progression of your ongoing success.

Design a Plan

How do you create a roadmap for your company's future? Well, first you need to write a mission statement outlining your family's personal and business goals. It should feature the retirement strategies you'll use to allow the next generation to take over the business while creating an income stream for yourself. Fortunately, you have many options — including buy-sell agreements, profit-sharing plans and trusts.

A well-trained successor is the surest way to guarantee your company's future. So, secondly, design a job description that specifies your successor's leadership qualifications. Spell out critical elements, such as educational and experience requirements. And don't hesitate to suggest goals or duties — such as implementing better technology and expanding into new markets — that you believe will prolong the business's future. If you don't know where your company is headed, long-term decisions become even more troublesome. Therefore, next integrate a comprehensive written business strategy into your succession plan. It should clarify business goals and growth plans for the next five to 10

(continued on page 3)



Coming Events

March 13, 2003 - 6:30 p.m.

Topic: The Potential Hazard of Mold Litigation By Jeff Harmon, Attorney-at-Law
Location: The Design Center

April 10, 2003 - 6:30 p.m.

Location: ProSource

May 8, 2003 - 6:30 p.m.

Location: Marsh Building Products

June 12, 2003 - 6:30 p.m.

Location: Pella - The Design Center

years. Make sure your successor (and his or her management team) understands it — doing so will go a long way toward creating peace of mind and easing the transition.

Last, devise a time line for the transition process that allows your successor to take over gradually. As the owner, this may be the most difficult time for you, because you're accustomed to having control and may understandably feel uncomfortable giving it up. That's why having a specific transition date is important — you'll have plenty of time to prepare for your departure while still lending your professional advice, when needed. Just be prepared to indeed step aside for good when that final day arrives.

Plan Sooner, Rather than Later

The longer you wait to design a succession plan, the greater the risks to yourself and your company. In a worst-case scenario, you may die still involved in your business's daily operations without a succession plan in place. The ramifications here can be devastating: Your company's value may plummet, and the government could become your estate's largest beneficiary. So the sooner you begin planning, the better. By planning for succession today, you'll retain control over the planning process. And getting your "house in order" early will make it easier for you to enjoy your retirement later. Work with a financial professional to help provide this peace of mind.

Don't burn bridges when leaving a job . . .

Everyone says you shouldn't burn bridges when leaving a job, but how many people do you know that just can't seem to resist going out with a bang? In fact, it's such a big bang that it blows up the bridge and anyone standing on or near the bridge. Is it worth it to go out with such a bang? Here's 5 reasons we found for NOT burning the bridge:

1. You reduce your rolodex of industry contacts. You can never have too many industry contacts. Cherish those and never put them in harms way!
2. You eliminate an energy drain. Yes, you will feel good for awhile after burning/blowing up the bridge. However, after the adrenaline has worn off, you're not producing energy from that source so your personal energy gets drained. If you didn't blow up the bridge, you wouldn't have siphoned off all that energy.
3. You keep people guessing. Especially if you didn't leave under ideal circumstances. They'll always wonder what you're up to. Very intriguing!
4. You may gain a fan club. It's powerful to be able to walk away from something that has disappointed you and not lash out. When

you do, people will respect and admire you. In fact, you probably won't hear it but I suspect you will inspire others to respond at a higher level, too.

5. You enlarge your business community. When leaving, take your boss or client to lunch. Then stay in touch with him/her regularly. It's about forming and maintaining relationships because that's what produces results.

Apply the ideas we've suggested and we are confident they will work for you.

10 Steps to Setting and Achieving Your Goals:

1. Develop and feel a deep desire to achieve a goal.
2. Write the goal down.
3. Set a deadline for your goal.
4. Identify any obstacles or help you need to achieve this goal.
5. List the activities necessary to achieve the goal.
6. Visualize yourself achieving the goal. Draw yourself achieving the goal.
7. Be persistent.
8. Review your plan regularly.
9. Analyze your result.
10. Set the next goal.



Ohio Valley NARI

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The mission of Ohio Valley NARI is:

- ✓ To establish and maintain the association's firm commitment to developing and sustaining programs that expand and unite the remodeling industry as well as to ensure the industry's growth and security.
- ✓ To encourage ethical conduct, sound business practices, and professionalism in the remodeling industry.
- ✓ To present NARI as the recognized authority in the remodeling industry.

These missions are carried out by:

- ✓ Promoting the common business interests of those engaged in the industry.
- ✓ Sponsoring educational programs and activities for members.
- ✓ Enlightening consumers to the needs and advantages of home remodeling and maintenance, thereby improving the nation's housing inventory.
- ✓ Recommending legislative and regulatory action that safeguards and preserves the remodeling industry, and stimulates the marketplace.

Goals of chapter to accomplish mission:

- ✓ To provide education to enhance professional and personal competencies.
- ✓ To create and encourage networking.
- ✓ To develop and promote the profession.
- ✓ To serve as a resource center.
- ✓ To provide quality publications to members.
- ✓ To improve membership and membership participation.
- ✓ To improve consumer awareness.
- ✓ To remain proactive on current and pending legislation.

NARI National names new EVP & COO

The National Association of the Remodeling Industry, (NARI) recently announced that Mary Busey Harris, CAE has been named the new executive vice president and chief operations officer of the professional trade organization. Harris is the first woman ever to hold that position with NARI. Harris most recently served as CEO for the International

Association for Human Resource Information Management in Chicago.

"We're delighted that Ms. Harris will be working with and helping to lead NARI," said Julius Lowenberg, president of NARI, "and we look forward to her taking this organization to the next level."

"NARI has many key ingredients for real success: a commitment to serve the needs of members, a clear vision and mission, specific strategic initiatives and goals, and a dedicated, impressive leadership team working in concert with a professional staff. It is a privilege to join this team as executive vice president," says Harris.

NARI THE NARI RENOVATOR

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The Ohio Valley NARI newsletter, *The NARI Renovator*, is produced by Ohio Valley NARI as a service and benefit to its membership. The organization's office is located at 136 South Keowee Street, Dayton, Ohio 45402; (800) 498-NARI or fax (937) 222-5794.

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