

POA

Policyholders of America

888-648-8823

Given by: Melinda Ballard

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First, I'd like to thank Mr. Conyers for recognizing the crisis mycotoxin-producing indoor molds have and continue to cause throughout the United States and for the opportunity to come here today to support this Bill.

My name is Melinda Ballard and I hail from the state of Texas.

I am one of a handful of people in the country who has been through a legal trial involving mold, although ours was not a "mold case" per se, but a bad faith and fraud case that led to a *Stachybotrys* infestation of epic proportions. The jury delivered, and the judge confirmed, that our insurance company committed fraud. The insurance executives, on the witness stand, admitted to have committed fraud and bad faith then proudly proclaimed they'd do it again if given the chance.

At the very nucleus of our claim was our insurance company's refusal to allow us to begin repairs and their deceit that followed. Wet sheetrock and plywood sat while I begged the insurance company to allow me to make the scheduled repairs, some 10,000 sq. ft. of *Stachybotrys* overtook what was once my family's home. From the start of my 1998 claim, I was told, in writing, by the insurance company, that if I began to tear out the wet building materials, I would lose coverage.

Little did I know that this same insurer had been involved, years before, in a number of property loss and personal injury lawsuits that revolved around toxigenic molds.

They KNEW better. They KNEW toxigenic molds could grow. The adjuster and her supervisor SAW mold growing in my home. They were told by me, in

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writing, that my three year old son was getting sick. Then they tested the home, found that Stachybotrys was airborne and did not tell us. They did this to avoid paying for proper repairs. We evacuated the home three years ago after microbiologists from a public university told us what they found in the home and urged us to leave.

Unfortunately, my insurance company didn't lie when they said, in trial, that if given the chance, they'd do it again. They, like some others, are doing the same thing to tens of thousands of their customers.

How do I know that? Because several months after my trial, I, together with several others here today, formed Policyholders of America, a non-profit association dedicated to the homeowner. After only four months, we have nearly 18,000 American families in our membership and that number is growing. We help guide policyholders through the claims process and sponsor treatment-driven medical research. All of us in Policyholders of America see the same sort of bad behavior being employed by many insurance companies throughout the United States.

And, they are getting away with it. Few homeowners have the financial resources to fight them head-on. This behavior is reminiscent of that employed by Ford with the Ford Pinto. We now know that Ford KNEW their Pinto was prone to blow up on rear impact yet their bean counters figured it was more cost effective to handle each of the death and personal injury cases as they arose than it would be to recall their defective product.

While our association is here today to wholeheartedly support your Bill, we do believe insurance companies and builders must be better regulated and mandates (not guidelines) be placed on them to ensure water damage does not become a toxic mold problem. Prevention of this problem is critical.

FEMA, a government agency, and the government-run flood insurance program, has known for years that to avoid mold growth, ALL wet building

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materials must be removed immediately.

Back in April of 1999, President Bush, then Governor of Texas, benefited from the taxpayer-funded remediation of the Governor's Mansion in Austin. Nearly half a million dollars was spent on ridding the Governor's mansion of Penicillium. The General Services office jumped right on the problem and immediately remediated it. Our President's own brother, Neil Bush, had a toxic mold problem in his home and one of his twin daughters lost most, if not all, of her hearing because of it. The Bush family has been personally touched by this problem and understands the health effects that can ensue.

If government run agencies like FEMA and General Services can get it right, private industry should too. It may cost a little more to remove the sheetrock from behind a kitchen sink after a leak there but in the long run it will save industry a lot of money because toxic mold will not grow on dry building materials. Removal of all wet material simply must become a mandate.

The Texas Dept. of Insurance attempted to take on this issue and convened a panel of 19 members, mostly from the insurance industry, to address the best practices to avoid toxic mold problems. The task force developed a list of best practices yet none of the companies involved have agreed to actually "employ" these best practices. By doing so, some have told me, they openly admit their prior practices in water damage mitigation were inadequate. Perhaps the bean counters involved with the Pinto are now working for the insurance industry.

State by state, insurers lobby for exclusions or caps on mold related claims. Some companies are threatening to "pull out" of states. I am sad to report that state by state, these companies are getting their way. Yet, simultaneously, regulators are allowing large premium increases. What's effectively happening is that insurers are reducing their liability for coverage by 60% while premiums are allowed to skyrocket. Within 18 months, mold will be gold for insurers because it will have sparked a profit bonanza for the insurance companies.

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In Texas, where insurers have proven themselves smarter than state legislators by finding a loophole in the law that allows them to avoid rate regulation, premiums are increasing by 300%. The insurance commissioner has single-handedly caused a real estate crisis because he let the insurance companies bully him. Insurance coverage and rates are becoming such a hot topic that campaigns in Texas and elsewhere are revolving around the issue.

Our recent experience with terrorism has shown us that the American public wants government to intervene when it comes to the health, safety and wellbeing of the American public. That time is now. Industry has failed miserably in self-regulation.

If the insurance and building industry cannot see fit to honor their contractual obligations then government should intervene and either (a) subsidize them so that financial assistance is made available to the public in these cases or (b) regulate them and impose mandates that force them to honor the promises made to their customers. Frankly, I would prefer the latter simply because I do not believe the American public should be forced to subsidize companies who will not honor their obligations.

Moreover, Policyholders of America is in favor of a “Three Strikes; You’re Out” penalty for those companies who refuse to honor their obligations. With this plan, a moratorium would be put on all punitive damages and replaced by an even greater penalty. If an insurer or builder is found by a jury THREE TIMES to have disregarded their duties and their behavior led to property or personal injuries, then they would be forced to leave the state, period. We put this plan to the test with the American public and polling results show that it is extremely popular, especially among Republicans. It however is NOT popular among the perpetrators who think the term “accountability” is a four letter word and should only be applied to individuals, not companies.

Policyholders of America does support your Bill because it’s an excellent start that will save millions of Americans the devastating health effects and financial ruin that toxic mold has caused thus far. We especially applaud the Bill because it will help children whose health care provider has denied benefits. It is so fitting that your Bill is named after my new friend, Melina.

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As your Bill gains momentum, and we think it will simply because of the sheer numbers of affected Americans, your colleagues in Washington should consider mandates and harsher penalties, like the “Three Strikes; You’re Out” plan. Insurers and builders would then think twice before setting sail on a course of action that results in toxic mold infestations in homes, schools, and offices all across America.

Industry will weigh in on this issue and tell you that “mold is everywhere” and “it’s natural”, and “there are no known health effects”. I would like to remind you that the same arguments were launched by fast food restaurants and food processors about e.coli. Researchers proved these industry champions wrong and today every naysayer that balked at e.coli has a face full of egg. That is happening today with specific mycotoxin-producing molds. Research is proving that certain molds shut down pathways to the brain which results in Alzheimer’s-like neurological damage. Asthma, certain cancers, miscarriages and even death can also occur when certain people, particularly the children and elderly, are living, working or going to school in toxic mold-contaminated buildings. Government stepped up to the plate and put in place a “no tolerance” program for e.coli by mandating that if e.coli was found, a recall must occur. We ask that government put in place mandates that prevent toxic mold from happening.

I know you have already received thousands of letters and emails from our membership and we will work closely with you as this Bill makes its way through the maze of high-dollar industry lobbyists looking to kill it so insurers and builders can dodge accountability. I would expect that those who opt to champion the perpetrators will hear from their constituents.

On a personal note, I am a Republican, and I cannot tell you how disappointed I am with my own representatives for not beating you to the punch. They would have made Texas proud by taking the initiative you have taken today. We salute you and I urge members from both sides of the aisle to support your Bill.

Thank you again for this opportunity. We stand with you, Mr. Conyers.

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