

## TEACHER SUES SCHOOL BOARD FOR "EXCESSIVE MOLD" IN CLASSROOM



An elementary school teacher brought action against a school board in Virginia, alleging a deliberate exposure to excessive mold and bacteria in her classroom. She claimed a "harmful workplace environment," but the district court ruled against her. The case landed in the U.S. Court of Appeals. The woman taught the fourth grade at Booker T. Washington Elementary School. Near the beginning of the 2007-2008 school year, she noticed an increased level of humidity inside the school. She blamed accumulated moisture for books and papers being "soggy" and "warped." Around the same time, dehumidifiers were placed throughout the school. Days later, the teacher's eyes became irritated and "itchy." By the second week, she was experiencing symptoms similar to allergies and later thought she might have a cold or sinus infection. She alleged that some students were suffering from comparable symptoms. Due to the problems possibly associated with the humidity, the teacher made a request to the assistant principal for a dehumidifier. She was told that none were immediately available, so the teacher obtained one herself. The dehumidifier was used every day, which the woman asserted collected enough water each night to activate the machine's shut-off feature. Only about a month into the school year, the woman's symptoms worsened and she developed a rash around her mouth that resulted in swelling. She told the assistant principal that she would need to see a physician and was allegedly told that the school was aware of a "mold problem." The physician diagnosed her with sinusitis, bronchitis, lip inflammation and infection, and mold exposure. Other teachers told the plaintiff that school administrators would order mold testing if given proof that it was causing illness, but no action was taken after the woman brought in a note from the physician. An administrator talked to the teacher and collected "air samples" from the classroom. Meanwhile, the teacher's rash had spread, and her physician stated that a fungus was the cause. Administrators declared the mold spore count higher outside of the classroom – finding no excessive mold – but they did have the classroom cleaned daily in lieu of weekly. When her symptoms continued to worsen, she was



told to file for worker's compensation because she wouldn't be covered for sick leave.

In her suit against the school board, the teacher alleged that the more frequent cleaning was the administrators' attempt to hide the mold, even from a mold inspection company. They likewise failed to inform the company of an inspection from several years prior that uncovered excessive mold in the school. The woman further claimed that the school had a "long history" of problems and neglected the correlating health risks. Because the woman was seeking relief for deprivation of constitutional rights, she was required to prove a "cognizable" violation – that it's within a court's jurisdiction. The district court believed that she had failed to do so and granted the school board's motion to dismiss. The appeals court noted the district court's conclusion: the teacher's assertion of a right to be free from harm from dangerous workplace conditions did not allege a cognizable violation of a federal constitutional right. Appellate judges saw no distinction between a risk of harm and the teacher's claim, on appeal, of a "liberty interest in bodily integrity." Accordingly, the appeals court affirmed.