

# Mold Bulletin!

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## **Arizona court follows the Institute of Medicine and provides proof that we are headed in the right direction.**

In Kilian v. Equity Residential Trust, et al., plaintiff, a tenant in the defendants' Crown Court Apartments Scottsdale, claimed that the defendants breached their duty to keep the premises in a fit and habitable condition (as defined in the Arizona Landlord and Tenant Act) by allowing mold to grow in the apartment. She further claimed that mold caused her to suffer mycotoxicosis which in turn has caused brain injury, seizure disorder, movement disorder, neurocognitive impairment and an immune system disorder.

Defendants contended that plaintiff's expert testimony failed to satisfy *Daubert* admissibility standards, and that even if it did, there was no evidence of mycotoxins in plaintiff's apartment, and no evidence that anything in plaintiff's apartment caused her alleged injuries.

The court conducted a *Daubert* hearing throughout the trial because this was a trial to the court and not to a jury. In its ruling, the court agreed with the conclusion of the Institute of Medicine of the National Academy of Sciences that there is **insufficient evidence of an association between neuropsychiatric symptoms and the presence of mold**. The court did note that there is sufficient evidence of an association between upper respiratory tract symptoms and the presence of mold, but in this case the plaintiff did not make such claims. The court therefore excluded the plaintiff's expert testimony that sought to establish causation between the presence of mold and plaintiff's symptoms.