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## **Client Alert**

### **PSRB Assists in Meth Lab Cleanups**

*By: Tonya Bond and Brianna Schroeder*

Plews Shadley Racher & Braun LLP (“PSRB”) has seen covered claims being denied for rental properties facing methamphetamine (“meth”) lab cleanups. These claims come about when a tenant manufactures meth in a rental property. The damages caused by meth manufacturing are extensive. Many times, the remediation costs may be almost as much as the property itself. The county often condemns these properties until the meth is remediated.

PSRB recently has resolved several claims in this area. Our clients’ insurers denied coverage for the property losses until PSRB became involved in the claims. Frequently, insurers cite inapplicable exclusions in support of the denial. One common defense insurers rely on is a “criminal activity” exclusion. But for a criminal activity exclusion to apply, it must be the *policyholder* that engages in the criminal activity that causes the loss. If the property loss is caused by a tenant at a rental unit, and the rental unit owner did not know that the criminal activity was occurring, the exclusion should not apply.

Under the first-party property coverage, insurers also claim that there is no covered “peril” for which the insurance applies. Though as of the date of this writing there is no Indiana coverage law interpreting meth cleanups under insurance policies, other jurisdictions have found that the damages from meth manufacturing are caused by “smoke” and “vandalism”—both covered perils under standard property policies. Indiana courts also would likely find that meth manufacturing is “criminal mischief,” another commonly covered peril.

PSRB has argued successfully against each of these exclusions and has secured coverage for the damages done to these rental properties. Coverage for drug manufacturing, however, does not stop with first-party property coverage. Where cleanups are required by the government, these are standard environmental liability claims, and coverage is also available under the liability coverage in most policies. When PSRB suggests that these claims are covered under liability coverage, insurers typically set forth all of the same defenses and exclusions as they do in any other environmental case. Each of these exclusions—pollution exclusions (both standard and absolute), personal injury coverage, suit, damages, all sums, owned property—has been resolved in favor of policyholders. In all of these cases, Indiana courts have given a narrow reading to standard liability policy exclusions or terms that the insurers tried to apply to reduce or eliminate

coverage for the environmental claims. This should hold true with respect to drug manufacturing claims as well.

There typically is no good reason for any insurance company to deny coverage for drug manufacturing claims. They are covered under both the first-party property coverage and the liability coverage of most standard policies. Many times, we have convinced insurers to accept coverage for these claims by simply making these points in correspondence. In most cases, PSRB has been able to secure insurance funds sufficient to pay for the extensive remediation and cleanup that is required when drugs have been manufactured in a home or building.

These cases demonstrate the importance of allowing coverage counsel to review claim denial letters. Understanding policy language and how courts apply that language can provide quick results for the policyholder. Prospectively, there are advantages for landlords not only to have coverage counsel analyze denial letters but also to have an insurance professional make sure that they have policies with broad coverage. PSRB can help with this as well.

If you experience similar problems with a rental property, or have other insurance coverage questions, please do not hesitate to contact Tonya Bond or Brianna Schroeder of PSRB.