

## **Frights Survive Halloween Night Bed Bugs Continue to Bite**

By: [Scott J. Richardson](#)

Halloween is over, but we still cringe as bed bugs continue to feed on the blood of their hosts. Despite studies by the Centers Disease Control there is no conclusive evidence linking bed bugs to illnesses; the bites are real.

Bed bugs are equal opportunity pests. They have not limited their infestations to homes. They are also found in hotels, schools, office buildings, locker rooms and even hospitals. Likely their infestation is a result of "hitch hiking" on clothing, luggage or cars to new locations. They are not easily seen and the evidence of their presence may be small stains on sheets or unexplained bites on a person.

Many pest control companies are seeing an uptick in the amount of bed bug remediation work that they are performing. At the same time there is an increase in claims for bed bug bites, infestations, emotional distress and diseases – whether or not causation can be tied to bed bugs.

Who is bringing the claims?

The traveler who was bitten in a hotel or motel is the most common. Claims are also being pursued by workers who have been exposed to bed bugs which include hotel housekeepers, hospital, janitorial and medical personnel, or any other worker changing clothes in an infested locker room at a work site. Generally, the worker claims fall under state worker's compensation laws. These are essentially no fault statutes requiring payment if it is shown the injury – in this case bites and/or disease - occurred not only in the course and scope of their employment but also from some risk present at or related to their employment.

Some workers have "upped the ante" and brought emotional distress claims for being bitten, which can be compensated for under certain workers compensation policies.

Other claims have been brought for significant property damage such as replacement of mattresses, bedding, draperies, and total eradication of areas of a home, hotel or office. This process is expensive and most homeowner's policies contain exclusions for property damage from insect infestation. This has caused a spike in third party claims being filed.

How can you protect your pest control company?

There is also the prospect that a lawsuit can be filed against a pest control company and/or operator for failure to get rid of bed bugs with their treatment. Eradication of bed bugs is not easy and should never be guaranteed either in writing or verbally. Advertising promises might be viewed as a guarantee. Make sure that you are using a tight, pest specific contract limiting the liability of the pest control company so as not to subject you to a standard of care that is not obtainable in every case. Ensure that your treatment professionals are properly trained and consistently re-trained in not only detection, but also eradication methods.

Can the spreading bed bug march be stopped? That remains to be seen. Treatments are varied and include heat and chemicals. Your pest control company or some of your competitors may have specially trained canines to sniff out bed bugs. Using best practices will insulate your company. Near the end of World War II and prior to be banned, the chemical DDT was quite effective in eradicating bed bugs. During that same time period, people changed their sheets every night,

tucking them in around the mattress to avoid bed bugs giving rise to the rhyme - sleep tight and don't let the bed bugs bite!

We perceive that there are external forces that will continue to increase calls for bed bug infestation eradication. First, if it is determined that homeowners need to report a bed bug infestation on a seller property disclosure statement, it will increase homeowner vigilance. Secondly, continued discussion by the media and in on-line conversations, has increased awareness of bed bugs. Position your company to help solve this problem by having solid contracts, well-trained professionals and state of the art treatments.

*About the author:* [Scott J. Richardson](#) is a shareholder in the Phoenix law firm of [Jaburg Wilk](#). Scott assists clients with [administrative law](#), [pest control law](#) and [insurance coverage](#) issues. He frequently speaks and writes on administrative law topics and is the author of *Office of Pest Management Qualifying Party and Supervisor Manual*.

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