Anatomy of a Water Damage Inspection Fully ANSI/IICRC S500-2021 Compliant

To Fight Bogus Denials Due to Alleged Long Term/Pre-Existing Damage

NAERMC
National Association of Environmentally Responsible Mold Contractors

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Abstract

ABSTRACT:

Improper / wrongful water damage insurance claim denials are usually based on an insurance Carrier classifying any new water damage as long-term / constant / repeated / continuous damage:

- Without any scientific basis (without running any tests for example).
- Without complying with IICRC S500 industry standard water damage inspection procedures.
- Without performing a mold assessment as defined by Florida Mold Law.

Testing is a powerful tool to fight unsupported claim denial.

This White Paper highlights from a technical perspective what an inspector needs to know and do to perform an industry/FL Mold Law compliant initial water damage inspection for the purpose of countering a Carrier's improper / wrongful water damage denial.

The *American National Standards Institute-approved IICRC S500-2021, Standard for Professional Water Damage Restoration* is the industry standard for both inspecting as well as restoring water damage.

When an IICRC procedure says "should" vs "recommended" the practice or procedure is a component of the accepted standard of care to be followed — means IICRC required.

IICRC S500-2021 1.2.2.1 Initial Inspection states:

> *"Restorers should inspect and document the source and time of the water intrusion, visible material deterioration, pre-existing damage and visible microbial growth. Professional moisture detection equipment should be used to inspect and document the extent of water migration and moisture intrusion into building materials and contents."*

Key words (again *should* means required).

1. ***Source and time*** — means an inspection that determines not only the source and timing of the water event but also the source and timing of damage such as mold growth — distinguishing new damage from old / pre-existing damage.
2. ***Pre-existing damage*** — we add testing to an S500 defined water damage inspection to best distinguish new mold from old/pre-existing mold.
3. ***into*** — means an inspection not only of surfaces but also within building materials. Requires intrusive inspection.

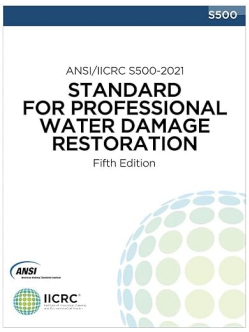
If the initial water damage inspection does not determine the timing of the intrusion / damages or is not intrusive — it's not ANSI/IICRC compliant. When the homeowner's water damage inspection is industry compliant, and the Carrier's is not: Advantage homeowner.

Anatomy of an ANSI-IICRC S500-2021 Standard for Professional Water Damage Assessment focuses on reviewing methods and procedures for scientifically determining / estimating the source / cause and timing of water damage following a water event.

Specifically, it explores methods to prove by testing any NEW water damage is recent / short-term and not excluded as long-term, constant, repeated, continuous damage.

Introduction

IMPROPER / WRONGFUL INSURANCE CARRIER DENIAL SCHEMES



If you are applying for life insurance, you must take a medical exam. If the exam finds pre-existing health conditions, your premium and / or coverage will be impacted.

In contrast, most property insurers do not require home inspections to document all significant pre-existing damage for either new policies or policy renewal.

Why do carriers not want to know about / document all pre-existing damage?

- Not knowing makes it easier to deny coverage for new damage in those areas.

But what about the 4-Point Inspection? Insurance carriers may require a 4-Point inspection. Isn't that a complete inspection? No. The 4-Point inspection is extremely limited. Appendix A.

Photo Requirements
Photos must accompany each *4-Point Inspection Form*. The minimum photo requirements include: • Dwelling: Each side • Roof: Each slope • Plumbing: Water heater, under cabinet plumbing/drains, exposed valves • Open main electrical panel and interior door • Electrical box with the panel off • **All** hazards or deficiencies

In fact, the 4-Point Inspection is so limited it **does not even require**:

- Pictures of water damaged flooring, bathrooms, or cabinets (only pictures of plumbing inside/under cabinets) or behind refrigerators.
- Pictures under ACs of water damaged drywall or damaged return air box.
- A mold assessment.
- Roof or attic inspection (inspectors do not need to climb into attics.)
- It also applies only to single-family homes and townhomes. Not condos.

In short, insurance carriers do not require inspection of the most common water damage areas in a home and require no inspections in condos.

The fee for a 4-Point Inspection is very low for the degree of work required, therefore inspectors strictly limit themselves to taking only the minimum number of pictures required.

An earlier 4-Point Inspection form used to have the word "mold" in it, but it was removed in the revision in 2012. No longer required to consider mold.

It might seem surprising that the 4-Point Inspection does not require checking for pre-existing damage to big ticket and common water damage areas in a home—*roof; attics; kitchen cabinets; AC closets; flooring; bathroom cabinets or shower stalls*—but this is all part of a Carrier's wrongful denial scheme.
How could this be?

Insurance Carrier Wrongful Denial Schemes

Carrier Improper / Wrongful Denial Scheme #1

After a new insurance claim (especially in older homes), an insurance carrier dispatches an inspector or adjuster to find old damage in the new damage area to "prove" that the new damage is actually long-term damage. Deny coverage.

Scheme #1: The carrier states they have "evidence" that new damage is not new. It is constant and repeated damage. And as such, it is excluded from coverage.

Claim wrongfully denied.

Carrier Improper / Wrongful Denial Scheme #2

Property insurance policies still talk about Constant & Repeated Damage Exclusions, but courts have ruled that does not actually exist as an exclusion.

See short article (Appendix B) by Florida defense firm Rumberger | Kirk explaining the 2018 Florida Court ruling regarding Constant and Repeated Damage Exclusions.

Per the Court's ruling, evidence that a leak has been ongoing for longer than 13 days is not relevant to coverage. The only issue is the timing of the permanent damage. Any permanent damage during the first 13 days of a water event matters, and triggers insurance coverage. Constant and Repeated Damage Exclusions are not applicable.

Scheme #2: Property insurance policies still contain Constant & Repeated Exclusion language, despite courts having ruled it irrelevant to coverage.

Carrier Improper / Wrongful Denial Scheme #3

Performing a surface only inspection months or years after the water event and claiming to be able to make reliable conclusions as to the source and timing of any permanent damage.

Scheme #3: Relatively often the Carrier inspects for water damage months or even years later, just before a scheduled jury trial. There are no procedures available, intrusive or non-intrusive, for the Carrier, months or years later, to make any reliable conclusions about source / cause or timing of hidden permanent damage.

When the homeowner has a proper and timely ANSI/IICRC compliant inspection and the Carrier not, the homeowner has a significant advantage.

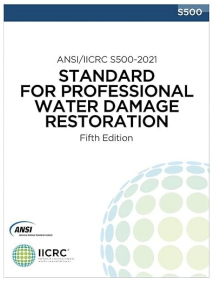
We suggest: Take culture samples of mold/bacteria from the property. Prove mold/bacteria starts to grow/grew in only a few days. That goes a long way in countering Carrier's denial based on long-term damage.

What is Permanent Water Damage?

PERMANENT DAMAGE AS DEFINED BY ANSI-APPROVED IICRC S500-2021

Permanent damage is physical damage (from a covered peril) that cannot be restored to pre-loss condition by cleaning or restorative drying, and can only be restored by material removal and replacement. Examples of permanent damages are mold/bacteria growth on porous or semi-porous (non-cleanable) materials; irreversible swelling of cabinet bottom or flooring; and flooring or cabinet staining / discoloration.

What is the definition of covered damage? Permanent damage that at least partially occurred during the first 13 days of the water event.



Because mold/bacteria grow fast there is always microbial growth (usually hidden) before day 14 that will trigger coverage. This White Paper's main (but not sole) focus is:

- As soon as possible after the water event, find the usually hidden mold/bacteria from the recent water release (permanent damage that triggers coverage). ANSI/IICRC S500-compliant intrusive inspection required.
- Scientifically prove with culture methods that at least some of the microbial growth growth occurred within 13 days to successfully fight the carrier's denial that claims long-term, continuous leakage. (See Timing of Mold Coverage, page 11.)
- Scientifically counter the Carrier's inspection report that appears superficially professional but finds some earlier wear and tear in the new water damage area in order to offer unfair justification to deny the new claim.

Summary of an IICRC Compliant Water Damage Inspection:

A detailed (intrusive) mold and water damage inspection after a recent water event that is:

(1) Compliant with ANSI-Approved IICRC S500-2021 (or the most recent S500 version).

(2) Performed by a qualified inspector / mold assessor 2/ remediator to provide science-based facts to help fight improper / wrongful insurance denial schemes.

(3) Focused on finding mold growth (permanent damage that cannot be restored by drying) that triggered coverage.

(4) Not only finding mold but using scientific procedures (culture methods) to prove that the timing of the mold growth is short term (and therefore covered) and not only long term (and therefore excluded.)

(5) The inspector does not solely rely on finding and analyzing mold growth to determine timing of loss but also must consider: cabinet side panel bottom swell; rust; wood decay, loss of drywall hardness and other factors to help define the timing of the water event.

In a *Anatomy of a Water Damage Inspection Fully IICRC Compliant* we detail the inspection and testing procedures needed to fight improper / wrong carrier denials by the application of industry standards and science.

Legal Ruling: Timing of the Damage

CARRIERS STILL DENY WATER DAMAGE CLAIMS BASED ON REPEATED DAMAGE EXCLUSIONS

In this section, additional detail about the exact language of the court ruling on constant or repeated seepage or leakage is examined.

Rumberger | Kirk writes: ***Fifth DCA Strikes Blow To Popular Policy Exclusion***

> *"The Fifth District Court of Appeal recently issued a decision that will likely force homeowners insurance carriers to rewrite one of their stalwart policy exclusions that pertains to "constant or repeated seepage or leakage" within the insured's residence…*
>
> *The Fifth District determined that the "over a period of 14 days or more" language of the exclusion does not unambiguously exclude losses caused by seepage or leakage that occurs within the first 13 days. Therefore, the court construed these terms against the carrier and in favor of coverage. Further, the court found that the burden is on the Carrier to prove that a particular loss was sustained ONLY after the thirteenth day and is therefore not covered under the policy."*

What this means from a practical perspective on a water damage claim:

- If there is permanent damage (such as mold) before day 14 from a covered peril, coverage is triggered.
- If there is additional damage after day 13, it does not result in denial of coverage.
- **The burden is on the Carrier to prove no permanent damage before day 14.**
- The insured has only to show the loss occurred. By law, the insured does not need to prove timing of the damage. However, as a practical matter, the insured must rebut Carrier denial so the insured must address timing of loss.

The timing of permanent damage and not the duration (constant and / or repeated) becomes crucial, however it is oftentimes impossible to determine accurately.

Yet, is accurate determination of the timing of the permanent damage important? That depends on how the term *accuracy* is defined. The critical issue is to reasonably determine that at least some permanent damage occurred before day 14. That is the only accuracy needed.

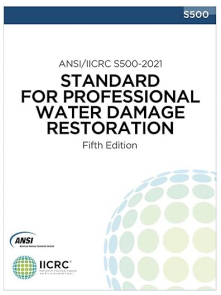
Why is mold growth so important for determining timing of damage?

Because mold grows fast. Well within 14 days of a water event, there will always be mold growth that will always change the IICRC defined water Category from Clean Water to Not Clean Water. IICRC does not permit restorative drying of Not Clean Water. ANSI/IICRC S500, the industry standard of care, requires remove and replace Not Clean Water. Do not dry.

- We suggest: Take culture samples of mold/bacteria from the property.
- Prove mold/bacteria starts to grow/grew in only a few days.
- That goes a long way in countering Carrier's denial based on only long-term damage.

IICRC Category of Water

WATER DAMAGE RESTORATION GUIDELINES ARE BASED ON IICRC WATER CATEGORIES



ANSI-Approved IICRC S500-2021 (5th Edition) outlines the principles behind safe and effective water damage restoration. It is approved by the American National Standards Institute (ANSI) and is the industry standard for professional water damage restoration.

The first step to starting ANSI-Approved IICRC S500-2021 compliant restorative drying is determining the Category of Water.

According to the ANSI/IICRC S500-2021, Category of Water *"refers to the range of contamination in water, considering both its originating source and its quality after it contacts materials present on the job site."* Category of Water identifies the cleanliness of the water not only at the time of release but also by the time the dry-out crew arrives.

Time and temperature affect the cleanliness of the water. Clean water will change to non-clean water (changing category) quite quickly as microbial growth is fast once materials are wet.

Only a Category 1 water event (Clean Water) is allowed to be dried per ANSI/IICRC S500-2021. When water has turned (as determined by odor or microbial growth), IICRC S500-2021 requires that wet porous or semi-porous microbial contaminated materials such as carpet and pad; drywall; or cabinets be removed and replaced and not dried. Odor or visible microbial growth. That's permanent damage. That triggers coverage.

ANSI/IICRC S500-2021 Defined Categories of Water

Category 1: *"Category 1 water originates from a sanitary water source and does not pose substantial risk from dermal, ingestion, or inhalation exposure. Examples of Category 1 water sources can include, but are not limited to: broken water supply lines; tub or sink overflows with no contaminants; appliance malfunctions involving water-supply lines; melting ice or snow; falling rainwater; broken toilet tanks; or toilet bowls that do not contain contaminants or additives."*

- *"Category 1 water can deteriorate to Category 2 or 3. Category 1 water that flows into an uncontaminated building does not constitute an immediate change in the category. However, Category 1 water that flows into a contaminated building can constitute an immediate change in the category. Once microorganisms become wet from the water intrusion, depending upon the length of **time** that they remain wet and the **temperature**, they can begin to grow in numbers and can change the category of the water. Odors can indicate that Category 1 water has deteriorated."*

Category 1 water originates as clean water but flows across dust that always contains microbial contaminants (on floors, under cabinets, in attics).

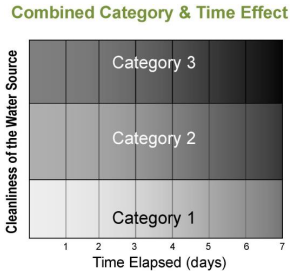
Mold grows fast. Category 1 water will have changed to a Category 3 mold-contaminated water event either by the time the dry-out crew arrives or by the time the drying is complete as the elevated temperature that comes with drying greatly increases the rate of microbial growth. Prove fast mold growth with culture methods.

IICRC Category of Water

Category 2: *"Category 2 water contains significant contamination and has the potential to cause discomfort or sickness if contacted or consumed by humans. Category 2 water can contain potentially unsafe levels of microorganisms or nutrients for microorganisms, as well as other organic or inorganic matter (chemical or biological)."*

- *"Category 2 water can deteriorate to Category 3. Once microorganisms become wet from the water intrusion, depending upon the length of **time** that they remain wet and the **temperature**, they can begin to grow in numbers and can change the category of the water."*

Category 3: *"Category 3 water is grossly contaminated and can contain pathogenic, toxigenic or other harmful agents and can cause significant adverse reactions to humans if contacted or consumed."*



Examples of Category 3 water (that originate as Cat 3 water) can include, but are not limited to:

1. *sewage;*
2. *wasteline backflows that originate from beyond any trap regardless of visible content or color;*
3. *all forms of flooding from seawater;*
4. *rising water from rivers or streams; and*
5. *other contaminated water entering or affecting the indoor environment, such as*
6. *wind-driven rain from hurricanes, tropical storms, or other weather-related events.*

Time and temperature impact mold growth. Generally, by the time the restoration contractor arrives, a water event that started out clean will generally have already changed category due to contact with microbial contaminated dust / dirt that is always present.

The elevated temperature associated with drying as well as turning off the AC as recommended by IICRC accelerate the mold growth.

But note: Items 3 - 6 above. Flooding and wind driven rain originate as Cat 3.

DO NOT DRY.

REMEDIATE ONLY. NO TESTING REQUIRED FOR 1-6 TO PROVE PERMANENT DAMAGE THAT REQUIRES REMEDIATION. NO DRYING.

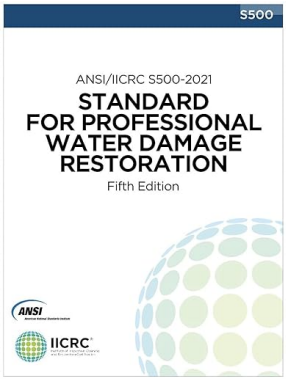
Intrusive Inspections

ANSI/IICRC S500-2021 ON INTRUSIVE INSPECTIONS

IICRC S500-2021 has done a good job defining that an inspection is not simply a surface inspection.

The problem is that while many insurance Carriers say they comply with IICRC S500-2021 standards, they rarely allow for IICRC-compliant inspections. Why? Requires opening up walls, ceilings, removing toe kicks and baseboards, pulling out dishwashers etc. Requires an intrusive / destructive inspection that must then be repaired. **And because they don't want to find mold. Because if Mold, Do Not Dry. Remediate/Replace/Rebuild only... costs more than drying.**

Pre-Restoration Evaluation of Assemblies: **"***Evaluating layers of assemblies of materials should be done when it is suspected that water has migrated under or into it [always of course]. Restorers should understand the particular construction in order to determine the best restoration approach. Properly inspecting, cleaning, drying, and restoring these assemblies can require removal of surface or multiple layers of them." ANSI/IICRC S500-2021 16.2.1*



Initial Inspection: *"Professional moisture detection equipment should be used to inspect and document the extent of water migration and moisture intrusion into building materials and contents." ANSI/IICRC S500-2021 1.2.2.1.*

Moisture Inspection Equipment

Some of the inspection tools that water damage restoration professionals use:

- Moisture meters: both pin type and non-pin type, they are used to determine surface moisture content, as well as to establish monitor, and determine when dry standards are met.
- Infrared cameras: they are used to measure surface temperatures. However, they are unable to determine which layer is wet or when dry.
- And of course, quality digital cameras to memorialize the visual inspection.

Problematically, none of the aforementioned inspection equipment looks / measures inside of walls or layers.

Cavities must therefore be opened to reliably determine the source and timing of mold or hidden moisture as well as pre-existing conditions.

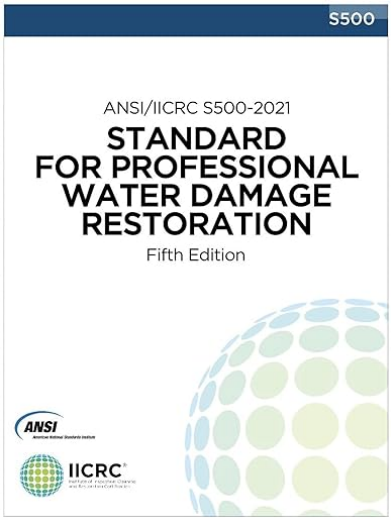
As defined in IICRC S500-2021 page 19: "*Professional moisture detection equipment should be used to inspect and document the extent of water migration and moisture intrusion into building materials and contents.*"

If there is no intrusive inspection, the inspection is not IICRC S500-2021 compliant.

An intrusive inspection is costly because opening walls, removing baseboards require environmental controls to protect the indoor environment which then must be followed by some amount of rebuild. And if the inspection finds Mold. Do Not Dry. So Carriers do not look.

Importance of IICRC Categories

IICRC REQUIRES REMOVE AND REPLACE PER ANSI/IICRC S500-2021 16.2.2.2



When the Category of Water has changed from Clean (Cat 1) to Mold-Contaminated (Cat 3), porous and semi-porous materials must be removed and replaced. They *cannot* be restored to as new by restorative drying.

Change of Category triggers insurance coverage. And there is always Change of Category (microbial growth / odor) to be found, if and when an intrusive inspection is performed after a water event.

IICRC Requires Remove and Replace with [Mold Contaminate] Category 3

Affected materials or assemblies that should be removed and replaced include but are not limited to:

- Gypsum wallboard (single-layer, multiple-layers, both standard and fire-rated).
- Mineral fiber lay-in ceiling tiles.
- Wall insulation and sound attenuation board.
- Wallpaper (e.g., vinyl, textile) and wood paneling.
- Carpet and carpet cushion (pad, underlay).
- Particleboard or Medium Density Fiberboard [kitchen and bath cabinets and toe kicks. baseboard; crown molding.]
- Many multi-layer flooring systems (e.g., laminate, vinyl sheet, parquet, engineered wood) under which Category 3 water has migrated and cannot be sufficiently dried, cleaned, or sanitized.

ANSI/IICRC S500-2021 requires determination of Category. No determination of Category, the assessment / investigation is not IICRC compliant.

To prove change of Category from Cat 1 to Cat 3, find and photograph (often hidden) mold growth. Mold growth (Category 3 microbial contamination) is permanent damage. Cannot be restored by drying. Requires material removal that triggers coverage.

And keep in mind, a proper (IICRC compliant) and complete determination of Water Contamination Category requires an intrusive inspection in a timely manner — as soon as possible after a water event.
Taking culture samples, proving mold grows fast is always recommended.

Timing of Mold Damage

DETERMINING THE TIMING OF MOLD DAMAGE BY CULTURE TESTING.

Mold growth requires material removal, which triggers coverage. But there is more at issue than finding mold. One must not only find the mold in the water damage area, but one needs to prove that the mold growth is new. Not old, long-term damage.

That's where culture testing comes in. With culture testing, one can not only distinguish fast growing (new) mold from slower growth (long-term) mold but can prove mold starts to grow in days.

First, find the mold by performing an ANSI/IICRC S500-2021 compliant, intrusive inspection immediately after the after the water event. Then test the mold using culture methods to prove near-term damage. Near-term damage triggers insurance coverage.

In addition to determining that there is new mold damage, one will also have to provide answers to the following:

1. Not only show that there is new mold damage but prove that any old (pre-existing) mold was limited and not related to the new damage.
2. Keep in mind that very often, in older homes, there is some limited pre-existing damage. But can one prove that the kitchen or vanity or floor was not a total loss and needed replacement before the new water event?
3. How much pre-existing damage is there versus new damage?
4. Is the pre-existing damage considered normal wear and tear?

The mold (and water damage) inspector's job is to provide a scientific basis to help adjusters, attorneys, carriers, and juries by answering these questions so that sound coverage determinations can be made.

There is a powerful / reliable mold testing option to determine timing of loss based on testing for mold growth species to differentiate fast growing from slow growing or dead mold:

- ☑ Take several swabs of the moldy material.
- ☑ Submit the samples to the lab for mold culture analysis and mold speciation.
- ☑ Look at the ratio of fast to slow mold growth. If the majority is slow growth, the mold is pre-existing and is not from a new source. And vice versa.
    - Early / fast mold colonizers such as some species of *penicillium* (pen) and *aspergillus* (asp)(together called pen/asp) become readily visible in as early as 3-5 days. Slower growth colonizers such as *stachybotrys* and other species of pen/asp grow much slower.

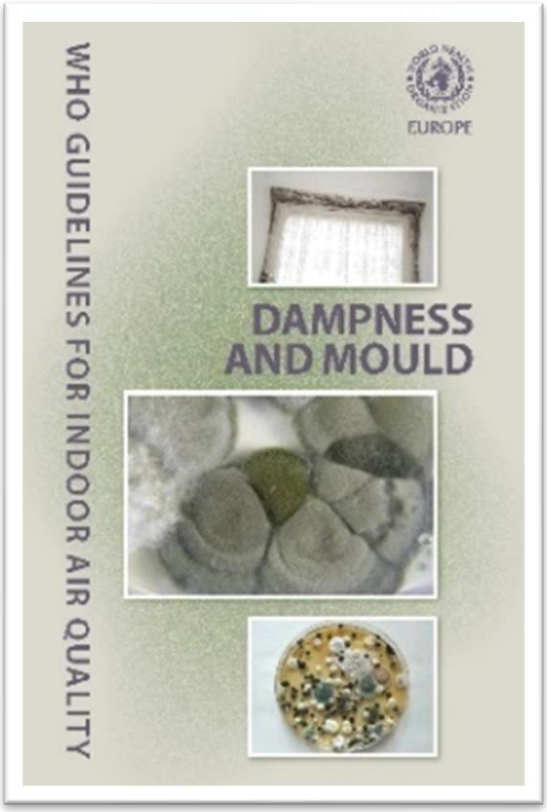
According to the EPA, mold starts to grow within 48-72 hours. Species of faster growing mold typically become heavy enough to be visible between 3 - 5 days. Slower growing mold species come a few days later — but still typically within several weeks.

Prove mold grew fast using culture methods to fight claim denial.

Timing of Mold Damage

CULTURE TESTING TO THE SPECIES LEVEL TO PROVE THE TIMING OF THE WATER EVENT

WHO Guidelines for Indoor Air Quality provides a list of water damage indicator molds broken down into fast growth and slow growth molds based on testing for mold **species**.



Fast growth mold species:

Alternaria citri • Aspergillus (Eurotium) amstelodami • Aspergillus candidus • Aspergillus (Eurotium) glaucus • Aspergillus niger • Aspergillus penicillioides • Aspergillus (Eurotium) repens • Aspergillus restrictus • Aspergillus versicolor • Paecilomyces variotii • Penicillium aurantiogriseum • Penicillium brevicompactum •Penicillium chrysogenum • Penicillium commune • Penicillium expansum • Penicillium griseofulvum • Wallemia sebi

Slow growth mold species:

Alternaria alternata • Aspergillus fumigatus • Epicoccum spp. • Exophiala spp. • Fusarium moniliforme • Mucor plumbeus • Phoma herbarum • Phialophora spp. • Rhizopus spp. • Stachybotrys chartarum (S. atra) • Trichoderma spp. • Ulocladium consortiale • Rhodotorula spp. • Sporobolomyces spp. • Actinobacteria (or Actinomycetes)

An intrusive (IICRC compliant) water damage / mold inspection should be performed immediately after the water event. The samples are incubated on culture media and analyzed at the lab down to the species level.

The absence of or if only relatively small quantity of slow growth mold proves that the water event was recent.

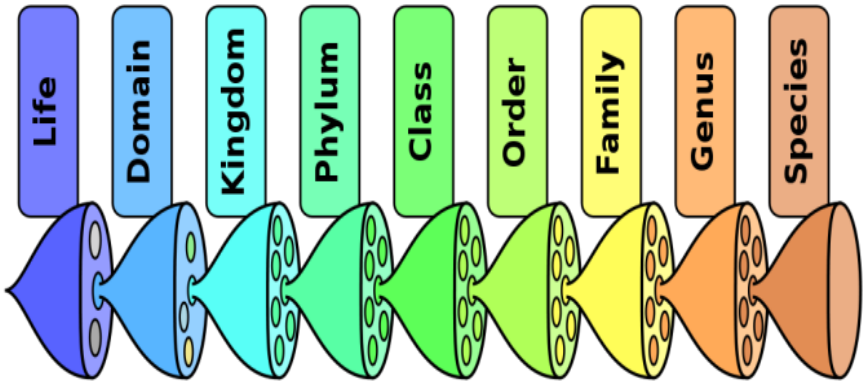
When the denied claim goes to litigation, the Carrier will send out a forensic engineer, perhaps as much as 2 years later. It will be too late for the Carrier to perform such tests. The homeowner will therefore have a major advantage over the carrier.

Prove at least some mold grew fast using culture methods.

Genus vs Species

GENUS AND SPECIES DEFINED

Culture methods can be used to identify mold spores down to both the *genus* as well as *species* level. Speciation is required to determine if fast or slow growth molds.



What does genus and species level mean? The best way to explain is with an example:

Take the mold *aspergillus versicolor*.
Here *aspergillus* refers to the genus and *versicolor* to the species.

When performing an analysis of fast growth to slow growth molds by growing on culture media:

- One is only looking at live / viable mold and live / viable mold spores since old / dead spores do not grow on culture media and are not detected/ counted.
- For the ratio of fast to slow growth molds, one only considers *Water Damage Indicator Molds / Spores* — not common outdoor molds that may have blown or tracked in.

Spore trap and swab sampling analyzed by Direct Microscopic Examination (DME) cannot distinguish mold species; cannot distinguish water damage indicator molds from non-water damage indicator molds; and cannot determine if the mold spores are *aspergillus* or *penicillium* much less distinguish fast growth molds from slow growth molds.

For insurance property damage coverage purposes after a water event, details about genus and species as well as the mold's viable / non-viable status can be crucial in determining timing as well as cause of loss.

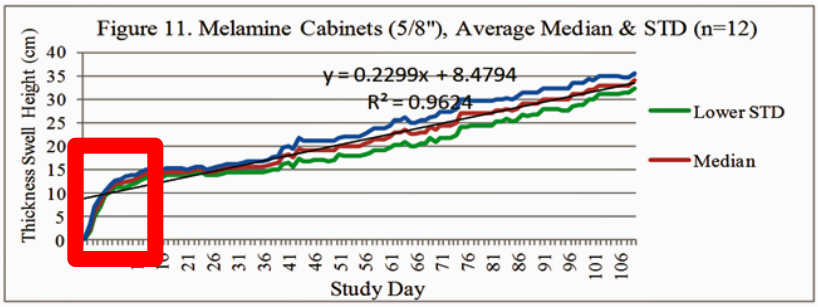
You can always prove mold grew fast using culture methods.

Cabinet Panel Swell

MEASURING SIDE PANEL CABINET SIDE PANEL SWELLING TO DETERMINE TIMING OF DAMAGE

Dr. Ralph Moon, the well-known insurance carrier forensic engineer specializing in water damage, published a study in 2015 called *Thickness Swell in Particle Board: A Forensic Tool for the Duration of Loss*

Moon performed experiments measuring cabinet side panel thickness swell over time and developed a formula for estimating the duration of water exposure by comparing cabinet panels in water damaged homes to their experimental data. To summarize, if there was a great deal of thickness swell the water exposure was deemed long-term. Claim denied.



But with the 5th District Court of Appeals ruling that the length of exposure is irrelevant and only the timing of the damage is important to determining coverage, Moon's data became a great boon to homeowners.

Take for instance the chart above. In it, Moon shows the timing of catastrophic / permanent damage (irreversible swelling) is always less than 14 days. The fact that there is additional damage after day 13 is not relevant to coverage. Once the pressed wood (particle board) swells, no amount of drying will restore to as new.

Furthermore, an earlier paper by Moon states: *"The swollen appearance of these wood composite materials was consistent with long-term exposure to moisture, although the exposure period was only 30 minutes."*

http://clmmag.theclm.org/home/article/feeling-the-heat

10/20/2009

Feeling the Heat

Hot water can warp an adjuster's perspective on water-damaged wood composite materials.

By Ralph E. Moon, Ph.D., CHMM, CIAQP

Water losses lead personal property claims in the U.S., but are they as well understood as they are widely prevalent? A recent study shows that when medium density fiberboard (MDF), non-faced particleboard and Melamine (faced particleboard) are exposed to water, dramatic dimensional changes occur at water temperatures above 85°F. The swollen appearance of these wood composite materials was consistent with long-term exposure to moisture, although the exposure period was only 30 minutes. The test results underscore the importance of understanding the effects of elevated water temperatures on composite wood materials used in cabinetry, furniture and trim when supporting decisions of duration of loss.

The insurance carrier prepares reports and measurements that claim cabinet swell proves long-term water damage exposure.
Understand that this is a red herring. Cabinet panel bottoms, when exposed to water, expand fast. This is permanent damage and always triggers coverage.

Galvanized Steel Studs/Track

MEASURING GALVANIZED STEEL CORROSION TO DETERMINE TIMING OF DAMAGE

Steel studs used in homes and commercial buildings are galvanized and resistant to rust. They take weeks or months to rust.

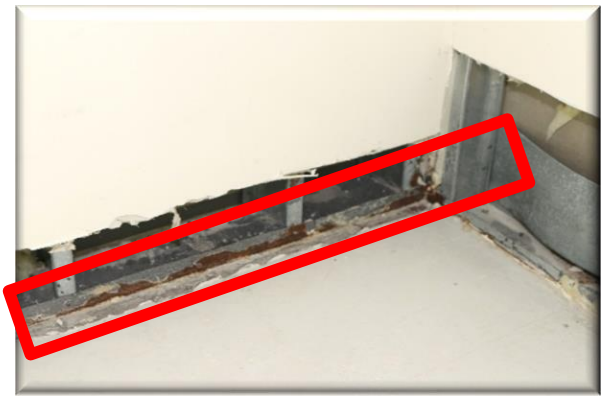
While significant rust on framing elements (or metal corner bead) does mean long-term water exposure (>13 days), finding rust on steel does not necessarily mean there was no new water event. Keep in mind that there is almost always rusted framing steel in older homes because most have already had several earlier leaks. The rust may be from an earlier, long-term water event or even from the time of construction.


Stud

During construction, steel wall-framing often starts to rust because it is exposed to water for months. For example, if the framing was installed before the roof was properly dried in.

If, during construction, the drywall was water damaged and the framing rusted, the drywall may have been replaced, but perhaps not the rusted framing steel.

This is a common occurrence. To show that the rust on steel studs and steel bottom track at a new water leak is not related to the new leak, perform an intrusive inspection not only in the new water damage area but also in other areas away from the new leak.



For example, the picture on the right shows heavy rust on a galvanized steel bottom track in an area that was not affected by a new water leak. The exact timing of the new leak was known because it came from a burst water line in the unit above. Since the exact timing of the new leak is accurately known, we can conclude there is previous rust not related to the recent water event.

Generally, no single indicator is ideal for dating a water event especially when hidden inside of walls. But if the walls are opened, for example during remediation or in an intrusive inspection, it is usually possible to reliably determine whether long-term or short-term by looking at *patterns* of rust, mold, and particle board damage.

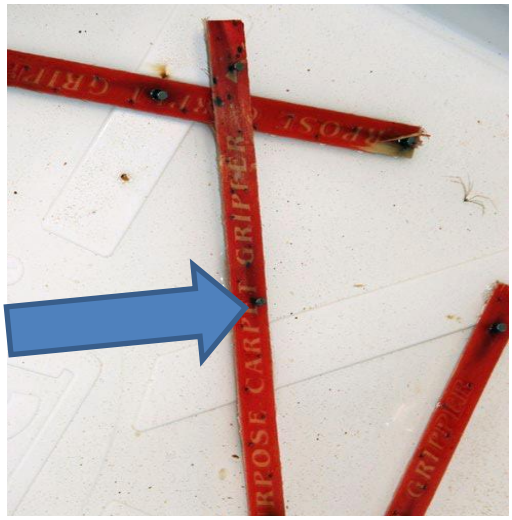
It is true that oftentimes one cannot reliably determine if the rust is new or pre-existing. But remember if that is the case then neither can the Carrier.

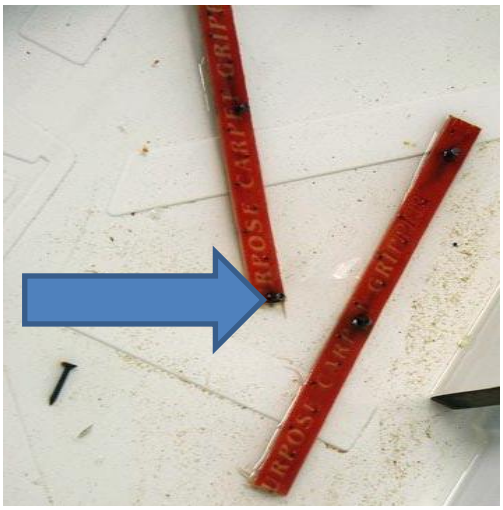
If you inspect immediately after a water event, and test using culture tests for mold species and find only or mostly fast-growing molds this allows you to reliably determine that the water event is new and that the rust is prior unrelated damage.

Carpet Tack Experiment

WHAT OTHER MATERIALS CAN BE LOOKED AT TO HELP DETERMINE TIMING OF WATER DAMAGE?

Carpet tack is a good choice. Why because water damage to the carpet tack wood and the carpet tack nails appears within 14 days.





Upper left: Carpet tack 8 days in water bath. Rust around nails just starting. **Upper right:** After another week, rust around nails increasing in size. **Bottom left:** After 30 days. Wood discoloration. More rust. **Bottom right:** Long-term or not?

When the carpet is / was wet, strong evidence of the newness of a water event can be found by performing a timley intrusive inspection (IICRC compliant): pulling up carpet edges and finding neither carpet tack wood staining nor nail rust.

Wood Stain; Wood Rot

WHAT OTHER MATERIALS CAN HELP TO DETERMINE TIMING OF WATER DAMAGE?

Checking for wood damage can be useful but not as useful as carpet tack damage. Why? Because water damage to wood often takes longer than 13 days**.** Wood can start to stain almost immediately after a water event (within weeks). However, wood rot always takes more than 14 days and finding wood rot means that there has been long-term exposure to water.

Finding no wood staining and no wood rot provides evidence of the newness of a water event.

But keep in mind that older homes, as is the case with rust, one will often have some wood rot / staining from earlier water events.

Finding wood rot in a home near a new leak does not necessarily mean that a new water event / claim is long-term.

Baseboard staining and /or rot are typically not hidden inside of walls or behind dishwasher. The appearance of baseboard can therefore be key for investigators.

Of further help would be to perform an IICRC-compliant inspection and peek behind the baseboards.

But again, typically, more than one approach / method should be used to determine timing of the loss. Wood rot / staining + mold + rust + carpet tack.

Finding wood rot in a home near a new leak does not necessarily mean that a new water event / claim is long-term. However, if there is extensive wood rot, as shown above, it may be difficult to counter the denial. Pick your battles.
But you can always prove mold grew fast using culture methods.

NAERMC
National Association of Environmentally Responsible Mold Contractors

Cat 3 Sewage Triggers Coverage

POROUS OR SEMI-POROUS EXPOSURE TO SEWAGE TO DETERMINE TIMING OF WATER EVENT

If sewage, a type of Category 3 contamination, comes into contact with virtually any porous or semi-porous (uncleanable) household material (see specific materials below), that must be discarded per IICRC S500-2021 Industry Standard of Care. This triggers coverage. The permanent damage is immediate.

IICRC Requires Remove and Replace if Category 3

Following a Category 3 water intrusion or after a Cat 1 loss has turned to a Cat 3 loss due to time and temperature, affected materials or assemblies that should be removed and replaced include, but are not limited to:

- Gypsum wallboard (single-layer, multiple-layers, both standard and fire-rated).
- Carpet and carpet cushion (pad, underlay).
- Particleboard or Medium Density Fiberboard (MDF).
- Many multi-layer flooring systems (e.g., laminate, vinyl sheet, parquet, engineered wood) under which Category 3 water has migrated cannot generally be sufficiently dried, cleaned, or sanitized.

Note that MDF (Medium Density Fiberboard) and particle board are included on the list. Almost all kitchen and bathroom cabinet boxes are particle board. Much of today's baseboard is MDF. If sewage water touches either, the material must be discarded. This triggers coverage, and cannot be restored by drying.

What is sewage according to IICRC S500-2021?

Category 3: Category 3 water is grossly contaminated and can contain pathogenic, toxigenic, or other harmful agents and can cause significant adverse reactions to humans if contacted or consumed. Examples of Category 3 water can include, but are not limited to: sewage; wasteline backflows that originate from beyond the trap regardless of visible content or color; all other forms of contaminated water resulting from flooding from seawater; rising water from rivers or streams; and other contaminated water entering or affecting the indoor environment, such as wind-driven rain from hurricanes, tropical storms, or other weather-related events if they carry trace levels of contaminants (e.g., pesticides or toxic organic substances)

Sewage is a backflow or any drain line leakage beyond the trap regardless of color.

To prove that any of the items on the above list have been touched by sewage water, the preferred approach is to look for surface discoloration. One can also take a surface sample with a wet swab and submit to the lab for a fecal coliform bacteria analysis. If it comes back positive, it's a Cat 3 sewage loss. But lab analysis for sewage is not always reliable. Check for color.

What is fecal coliform bacteria? According to the EPA, fecal coliform bacteria is a subset of the total coliform group; with a primary example being *escherichia coli* (E. coli).

Sewage is backflow or any leakage from beyond the trap regardless of color. Sewage originates as Car 3. Triggers coverage. There is no timing issues at all. Do not dry.

Check List for a Proper Inspection

CHECK LIST FOR A PROPER IICRC COMPLIANT MOLD & WATER DAMAGE INSPECTION.

What inspection procedures are best for finding coverage triggers after a water event?

- ☑ Initial Inspection must be performed immediately after the water event. There is no possibility of reliably determining the timing of the water damage (short term or long term / pre-existing) months or years after the event.
- ☑ Culture-Based Mold Testing to determine Mold Species. Listed as the first inspection procedure since this is the most important. The water damage / mold inspection should be performed *immediately* after the water event, estimating the timing of the water event by testing using culture methods for:

  A.) But you can always prove mold grew fast using culture methods.

  Carriers are at a disadvantage here. When carriers deny the claim, they often will not spend money on an inspection. And if they do, it is always non-intrusive (not IICRC S500-2021 compliant) therefore unlikely to find mold hidden in walls.

  Then, due to litigation delays, carriers will send their inspector out perhaps months or years later, when too much time will have passed to accurately study mold growth. The court will have only the homeowner's inspection results. This is where high quality photographs of the damage, in addition to test results, come in handy.
- ☑ Pressed Wood Cabinet Side Panel Swell: Cabinet side panel (leg) swelling is immediate if cabinet sides are pressed wood and not plywood (almost always pressed wood). This is permanent damage, but the carrier will always wrongfully "determine" that the swelling takes a long time and is not immediate. Must be used with other criteria such as mold or sewage.
- ☑ If There Is Carpet: Check for carpet tack wood discoloration or carpet nail rust. If no damage, the water event was not long-term.
- ☑ Pressed Wood or MDF: IICRC states that pressed wood or MDF with mold growth on it needs replacement. Cabinets are typically pressed wood. Baseboard and crown mold are often but not always Medium Density Fiberboard. Once wet, MDF materials cannot be restored to original strength by restorative drying. Must be replaced. This triggers coverage.

Check List for a Proper Inspection

- ☑ Sewage Testing: Prove that porous or semi-porous content has come into contact with sewage water by visual methods looking at discoloration. Sewage exposure to porous or semi-porous material is an immediate /instantaneous change of Category. It requires material removal.
- ☑ Drywall Hardness Testing: Measuring hardness of drywall that was exposed to water can help determine the timing of water exposure.

Make Sure to Perform an IICRC S500 Compliant (Intrusive) Inspection

When possible, check under baseboards and carpet edges for mold, rust, carpet tack, wood damage. Remove dishwashers to inspect behind them. Remove water-damaged cabinet toe kicks as needed. Document with high quality pictures or videos. The IICRC Industry Standard of Care *requires:*

- ☑ Intrusive inspections immediately after a water event.
- ☑ Determination of water Category after a water event.
- ☑ Inspection as defined in IICRC S500-2021 1.2.2.1 Initial Inspection

When the carrier does not perform an intrusive inspection or determine water Category, or follow the IICRC definition of an initial inspection they are not compliant with the IICRC S500-2021 Industry Standard of Care.

On the other hand, when the homeowner's inspector performs an industry / IICRC compliant inspection, the homeowner's inspector will have the advantage — even if the results are not 100% clear.

And yes, it is true that intrusive inspections have additional costs due to required safety measures, meaning containments and / or air scrubbers. However, that is a small price to pay to obtain the best possible documentation of damages incurred.

Following these steps will almost always provide science based convincing evidence that the water damage occurred prior to day 14, making it short-term and a covered loss (assuming that be true). And even if not completely convincing, your assessment is compliant with industry standards and FL Mold Law and the Carrier's assessment is not. Therefore, your assessment will have more credibility.

But you can always prove mold grew fast using culture methods.

Conclusions

What Is A Fully IICRC Compliant Water Damage Inspection?

A detailed (intrusive) water damage and mold inspection **immediately after** a water event that is:

(1) Compliant with ANSI-Approved IICRC S500-2021 (or the most recent S500 version).

- Compliance requires an intrusive inspection into and under water impacted materials, not only surface inspection / measurements. Why? To find hidden moisture and hidden mold and other damage that are used to help determine timing of the water event.
- The determination of IICRC Water Contamination Conditions. Why? Because once a porous or semi-porous material (such as drywall) is Category 3 (microbial contaminated), it cannot be cleaned or dried to restore to pre-loss condition. It must be replaced, triggering coverage.

(2) Focused on finding hidden mold growth (permanent damage that cannot be restored by drying) to trigger coverage.

- This will require that the inspector / mold assessor perform an IICRC S500-2021 compliant intrusive inspection immediately after a water event.

(3) Undertaken with scientific procedures to prove that the timing of the mold growth is short-term (and therefore covered) and not long-term (and therefore excluded).

- This will require that the mold assessor be trained in taking (intrusive) mold surface samples in the water damage areas and submitting samples for culture analysis. And then interpreting the lab reports to confirm (or contradict) the hypothesis that the mold is **(a)** recent (not pre-existing / long term; and **(b)** primarily new water damage indicator molds.

(4) Diversified in its methods, so that the inspector / mold assessor employs approaches beyond only finding and analyzing mold growth to confirm the short-term timing of damage.

- This will require that the inspector / mold assessor seek to define the timing of the water damage via additional factors besides mold such as by examining and carefully photographing cabinet side panel bottom swell; rust; carpet tack; wood decay; sewage; and loss of drywall hardness.

(5) The inspection is costly because one must do the intrusive inspection under appropriate environmental controls to make sure the inspection does not contaminate the living space (and often requires putting back baseboard, patching drywall inspection holes, etc.)

Fight Carrier wrongful denial schemes: After a water event, perform an industry standard initial water damage inspection. Even if the timing of the damage cannot be accurately pinpointed, the homeowner's inspector / mold assessor that performs a science-based, IICRC compliant initial water damage inspection will have the upper hand over the Carrier's non-IICRC compliant inspection.

Take culture samples of mold from the property. Prove mold starts to grow in only a few days. That goes a long way in countering Carrier's denial based on long-term damage.

Conclusions: Originates As Category 3

Category 3: *"Category 3 water is grossly contaminated and can contain pathogenic, toxigenic or other harmful agents and can cause significant adverse reactions to humans if contacted or consumed."*

Examples of Category 3 water (that originate as Cat 3 water) can include, but are not limited to:

1. *sewage;*
2. *wasteline backflows that originate from beyond any trap regardless of visible content or color;*
3. *all forms of flooding from seawater;*
4. *rising water from rivers or streams; and*
5. *other contaminated water entering or affecting the indoor environment, such as*
6. *wind-driven rain from hurricanes, tropical storms, or other weather-related events.*

Items 3 - 6 above. Flooding and wind driven rain originate as Cat 3.

DO NOT DRY. SPREADS MOLD AND CONTAMINANTS.

REMEDIATE ONLY. NO TESTING REQUIRED FOR 1-6 TO PROVE PERMANENT DAMAGE THAT REQUIRES REMEDIATION. NO DRYING ALLOWED. DRYING DAMAGES PROPERTY.

FIND >10 SQ FT OF MOLD AFTER DRYING. TRIGGERS FL MOLD LAW.

SUE DRY-OUT CONTRACTOR FOR ILLEGAL MOLD REMEDIATION & DAMAGES

APPENDIX A

4-Pt Inspection

4-Point Inspection Form

Insured/Applicant Name:_____ Application / Policy #:_____

Address Inspected:_____

Actual Year Built:_____ Date Inspected: _____

Minimum Photo Requirements:

- ☐ Dwelling: Each side ☐ Roof: Each slope ☐ Plumbing: Water heater, under cabinet plumbing/drains, exposed valves
- ☐ Main electrical service panel with interior door label
- ☐ Electrical box with panel off
- ☐ **All** hazards or deficiencies noted in this report

A Florida-licensed inspector must complete, sign and date this form.

Be advised that Underwriting will rely on the information in this sample form, or a similar form, that is obtained from the Florida licensed professional of your choice. This information only is used to determine insurability and is not a warranty or assurance of the suitability, fitness or longevity of any of the systems inspected.

Electrical System

Separate documentation of any aluminum wiring remediation must be provided and certified by a licensed electrician.

Main Panel

Type: ☐ Circuit breaker ☐ Fuse

Total Amps: _____

Is amperage sufficient for current usage? ☐ Yes ☐ No (explain)

Second Panel

Type: ☐ Circuit breaker ☐ Fuse

Total Amps: _____

Is amperage sufficient for current usage? ☐ Yes ☐ No (explain)

Indicate presence of any of the following:

- ☐ Cloth wiring
- ☐ Active knob and tube
- ☐ Branch circuit aluminum wiring (If present, describe the usage of all aluminum wiring):

* If single strand (aluminum branch) wiring, provide details of all remediation. *Separate documentation of all work must be provided.*

- ☐ Connections repaired via COPALUM crimp
- ☐ Connections repaired via AlumiConn

Hazards Present

- ☐ Blowing fuses
- ☐ Tripping breakers
- ☐ Empty sockets
- ☐ Loose wiring
- ☐ Improper grounding
- ☐ Corrosion
- ☐ Over fusing
- ☐ Double taps
- ☐ Exposed wiring
- ☐ Unsafe wiring
- ☐ Improper breaker size
- ☐ Scorching
- ☐ Other (explain)

General condition of the electrical system: ☐ Satisfactory ☐ Unsatisfactory **(explain)**

Supplemental information

Main Panel

Panel age: _____

Year last updated: _____

Brand/Model: _____

Second Panel

Panel age: _____

Year last updated:_____

Brand/Model: _____

Wiring Type

- ☐ Copper
- ☐ NM, BX or Conduit

4-Point Inspection Form

HVAC System

Central AC: ☐ Yes ☐ No

Central heat: ☐ Yes ☐ No

If not central heat, indicate **primary** heat source and fuel type: _____

Are the heating, ventilation and air conditioning systems in good working order? ☐ Yes ☐ No (explain)

Date of last HVAC servicing/inspection: _____

Hazards Present

Wood-burning stove or central gas fireplace *not* professionally installed? ☐ Yes ☐ No

Space heater used as primary heat source? ☐ Yes ☐ No

Is the source portable? ☐ Yes ☐ No

Does the air handler/condensate line or drain pan show any signs of blockage or leakage, including water damage to the surrounding area?
☐ Yes ☐ No

Supplemental Information

Age of system: _____

Year last updated: _____

(Please attach photo(s) of HVAC equipment, including dated manufacturer's plate)

Plumbing System

Is there a temperature pressure relief valve on the water heater? ☐ Yes ☐ No

Is there any indication of an active leak? ☐ Yes ☐ No

Is there any indication of a prior leak? ☐ Yes ☐ No

Water heater location: _____

General condition of the following plumbing fixtures and connections to appliances:

	Satisfactory	Unsatisfactory	N/A
Dishwasher	☐	☐	☐
Refrigerator	☐	☐	☐
Washing machine	☐	☐	☐
Water heater	☐	☐	☐
Showers/Tubs	☐	☐	☐

	Satisfactory	Unsatisfactory	N/A
Toilets	☐	☐	☐
Sinks	☐	☐	☐
Sump pump	☐	☐	☐
Main shut off valve	☐	☐	☐
All other visible	☐	☐	☐

If unsatisfactory, please provide comments/details (leaks, wet/soft spots, mold, corrosion, grout/caulk, etc.).

Supplemental Information

Age of Piping System:

_____ Original to home

_____ Completely re-piped

_____ Partially re-piped

(Provide year and extent of renovation in the comments below)

Type of pipes (check all that apply)

☐ Copper

☐ PVC/CPVC

☐ Galvanized

☐ PEX

☐ Polybutylene

☐ Other (specify)

4-Point Inspection Form

Roof (With photos of each roof slope, this section can take the place of the *Roof Inspection Form*.)

Predominant Roof

Covering material: _____

Roof age (years): _____

Remaining useful life (years): _____

Date of last roofing permit: _____

Date of last update: _____

If updated (check one):

- ☐ Full replacement
- ☐ Partial replacement
  - % of replacement: _____

Overall condition:

- ☐ Satisfactory
- ☐ Unsatisfactory **(explain below)**

Any visible signs of damage / deterioration?
(check all that apply and explain below)

- ☐ Cracking
- ☐ Cupping/curling
- ☐ Excessive granule loss
- ☐ Exposed asphalt
- ☐ Exposed felt
- ☐ Missing/loose/cracked tabs or tiles
- ☐ Soft spots in decking
- ☐ Visible hail damage

Any visible signs of leaks? ☐ Yes ☐ No
Attic/underside of decking ☐ Yes ☐ No
Interior ceilings ☐ Yes ☐ No

Secondary Roof

Covering material: _____

Roof age (years): _____

Remaining useful life (years): _____

Date of last roofing permit: _____

Date of last update: _____

If updated (check one):

- ☐ Full replacement
- ☐ Partial replacement
  - % of replacement: _____

Overall condition:

- ☐ Satisfactory
- ☐ Unsatisfactory **(explain below)**

Any visible signs of damage / deterioration?
(check all that apply and explain below)

- ☐ Cracking
- ☐ Cupping/curling
- ☐ Excessive granule loss
- ☐ Exposed asphalt
- ☐ Exposed felt
- ☐ Missing/loose/cracked tabs or tiles
- ☐ Soft spots in decking
- ☐ Visible hail damage

Any visible signs of leaks? ☐ Yes ☐ No
Attic/underside of decking ☐ Yes ☐ No
Interior ceilings ☐ Yes ☐ No

Additional Comments/Observations (use additional pages if needed):

All *4-Point Inspection Forms* must be completed and signed by a verifiable Florida-licensed inspector.
I certify that the above statements are true and correct.

Inspector Signature	Title	License Number	Date
Company Name	License Type	Work Phone	

4-Point Inspection Form

Special Instructions: This sample *4-Point Inspection Form* includes the minimum data needed for Underwriting to properly evaluate a property application. While this specific form is not required, any other inspection report submitted for consideration must include at least this level of detail to be acceptable.

Photo Requirements

Photos must accompany each *4-Point Inspection Form*. The minimum photo requirements include:

- Dwelling: Each side
- Roof: Each slope
- Plumbing: Water heater, under cabinet plumbing/drains, exposed valves
- Open main electrical panel and interior door
- Electrical box with the panel off
- **All** hazards or deficiencies

Inspector Requirements

To be accepted, all inspection forms must be completed, signed and dated by a verifiable Florida-licensed professional. **Examples** include:

- A general, residential, or building contractor
- A building code inspector
- A home inspector

Note: A trade-specific, licensed professional may sign off only on the inspection form section for their trade. (e.g., an electrician may sign off only on the electrical section of the form.)

Documenting the Condition of Each System

The Florida-licensed inspector is required to certify the condition of the roof, electrical, HVAC and plumbing systems. *Acceptable Condition* means that each system is working as intended and there are no visible hazards or deficiencies.

Additional Comments or Observations

This section of the *4-Point Inspection Form* must be completed with full details/descriptions if any of the following are noted on the inspection:

- Updates: Identify the types of updates, dates completed and by whom
- Any visible hazards or deficiencies
- Any system determined not to be in good working order

Note to All Agents

The writing agent must review each *4-Point Inspection Form* before it is submitted with an application for coverage. It is the agent's responsibility to ensure that all rules and requirements are met before the application is bound. Agents may not submit applications for properties with electrical, heating or plumbing systems not in good working order or with existing hazards/deficiencies.

APPENDIX B

Defense Attorney Report

Rumberger|Kirk

05.03.2018

Fifth DCA Strikes Blow to Popular Policy Exclusion

The Fifth District Court of Appeal recently issued a decision that will likely force homeowners insurance carriers to rewrite one of their stalwart policy exclusions that pertains to "constant or repeated seepage or leakage" within the insured's residence. While there are multiple variations of this exclusion depending on the carrier or the policy, one version in particular was called into question when the Fifth District determined that the language was found to have ambiguous elements.

Any attorney who has handled first party property damage cases involving water leaks has undoubtedly come across a case where an insurance claim was denied pursuant to an exclusion in the homeowner's insurance policy for "constant or repeated seepage or leakage." One common variation of this exclusion provides: "We do not insure for losses caused by constant or repeated seepage or leakage of water over a period of 14 or more days." A typical example of this would be if a homeowner discovers a leak beneath the kitchen sink and it is determined that the leak had been ongoing for several months. The carrier would generally deny coverage for this claimed loss under the seepage or leakage exclusion.

A similar scenario occurred in *Hicks v. American Integrity Insurance Company of Florida*. The carrier filed a motion for summary judgment based on the seepage or leakage exclusion, and the insured filed a cross-motion for summary judgment arguing that a loss occurred, that any loss occurring within the first 13 days is covered, and that he was entitled to damages for the covered loss. The trial court granted the carrier's motion for summary judgment, and the insured appealed arguing that the exclusion only applies to losses caused by water on day 14 and onward.

The Fifth District determined that the "over a period of 14 days or more" language of the exclusion does not unambiguously exclude losses caused by seepage or leakage that occurs within the first 13 days. Therefore, the court construed these terms against the carrier and in favor of coverage. Further, the court found that the burden is on the carrier to prove that a particular loss was sustained after the thirteenth day and is therefore not covered under the policy.

In the wake of this decision, and until carriers rewrite the seepage or leakage exclusion, carriers will have to adjust long term damage claims differently. The added burden of having to distinguish between water damage that was sustained on day 13 versus day 14 will play a major role in their decision on how to proceed in each claim. In certain cases, more emphasis may be placed on the negligence and maintenance exclusions of the policy.

If there is a silver lining for carriers, it is that courts should place greater emphasis on the prejudicial impact of any action taken by an insured that hinders or obstructs the carrier's investigation while adjusting the claim. Carriers cannot be expected to accurately parse out every detail of what happened, down to the exact day, when the insureds fail to satisfy their obligations under the policy.