

Florida Mold Assessment Law



Florida Department of
Business &
Professional
Regulation

FIND THE ILLEGAL MOLD ASSESSMENT [FLORIDA]

- The entire required training for Florida Licensed Mold Assessors is an 8-hour online class.
- Florida does not provide ANY specific guidance on mold assessing procedures other than a definition of a Mold Assessment.
- The definition itself is Florida Mold Assessment law.
- As we shall see, as a rule, Mold Assessors NEVER perform Mold Assessments as defined by Florida Mold Law.
- As a rule: Mold Assessors that work for Insurance Carriers NEVER perform legal inspections/assessments.

- As a litigation strategy: Find/prove the Carrier's initial Mold Assessment is non-compliant with Florida mold law (illegal) and ask the Judge to rule the Assessment and subsequent Scope of Work noncompliant/unlawful. Ask for the Judge to grant Summary Judgment.
- Proving Carrier non-compliance is super easy because the FL Mold Assessment must be intrusive and requires testing, but never is.
- There will typically be two claims: The original water damage claim and a second claim for damages due to illegal failed drying resulting from failed/negligent pre-drying inspection/assessment.

REQUIRED INTRUSIVE INSPECTIONS PART 1

- Florida Mold Law defines Mold Assessment as Intrusive.
 - Both the IICRC 500/S520 Standards require Intrusive Inspections.
 - The EPA Mold and Water Damage Guideline is also required Intrusive.
 - The ASTM Mold Assessment Standard is Intrusive.
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- All major Standards/Guidelines and FLA Mold Law require Intrusive water damage and mold inspections.
 - However, due to Carrier input, influence, malfeasance, while the IICRC S500/S520 published Standards require intrusive inspections, the IICRC Training Courses [using a proprietary training guide] teach [contrary to the actual IICRC Peer Reviewed/ ANSI-Approved S500/520 Standards] that inspections are surface only and not intrusive.

REQUIRED INTRUSIVE INSPECTIONS PART 2

- Carriers save billions by not inspecting.
- Carriers save billions by drying mold and then covering up mold and odors with illegal chemicals.
- As a result, Florida's insureds live in sick mold-toxin and biocide contaminated homes after a water event (leak, storm, flood etc.)

- Open a second claim for damages due to illegal failed drying resulting from failed/negligent pre-drying inspection.
- There are no caps on these damages, making litigation very attractive after always failed/illegal drying.

AS A LITIGATION STRATEGY

- As a litigation strategy: Find/prove the Carrier's Water Damage Inspection was non-compliant with Laws/Standards.
- Proving non-compliance is easy because the S500 Water Damage Inspection / S520 Mold Inspection must be both intrusive and must also include sampling, but never is/does.
- Ask the Judge to rule the Inspection, subsequent Scope of Work, Denial/Short pay noncompliant/unlawful.
- Open a second claim for damages due to mold contamination from illegal failed drying resulting from failed/negligent pre-drying inspection/assessment.
- Once ruled noncompliant/ unlawful ask the Judge to grant Summary Judgment.
- **The cost to clean mold contaminated content, clothing, ducting, indoor air can be substantial. No caps on these damages caused by DOV & Carrier Adjuster fraud.**

“FORENSIC ENGINEERS” ARE GENERALLY INCOMPETENT

- Carrier so-called “Experts”/ “Forensic engineers” are generally incompetent.
- That’s a strong statement ... Let me explain.
- The so-called Forensic Engineering companies work for Insurance Carriers.
- Their job is never to provide Forensic services.
- Their job is to never find Mold.
- Their job is to:
 - Provide ammunition for Carriers to deny or short pay claims.
 - And to raise the ante for Plaintiff attorneys who generally are not willing to pay/hire their own expert to refute the Carrier Engineer’s (expensive) report based on non-intrusive/illegal inspections. Easier to just settle and collect their fees. (Sad but true.)

CARRIER "ENGINEER'S" JOB IS TO NOT FIND MOLD

- Carrier so-called Forensic Engineers/Assessors: Their job is to cover up their incompetence with:
 - Complex reports that are full of air and surface sampling; temperature and humidity measurements; and boiler plate.
- But no intrusive inspection within (1) walls, (2) above ceilings, (3) behind or beneath cabinets.
 - And never (4) within ducting.
- 1-4 are all required by Standards and Laws to find mold. Because if mold: DO NOT DRY.
- So Carrier Experts NEVER find mold.
- As a result: Carriers save \$Billions by drying mold filled homes instead of Remediate/Replace, contaminating homes and occupants. Resulting in sick homes and sick occupants. (Sad but true.)

NEVER CARRIER POST DRYING QUALITY ASSURANCE INSPECTIONS

NEVER POST-DRYING QUALITY ASSURANCE INSPECTIONS

- Carriers then pay to cover up failed drying with stain killers and illegal chemicals.
- And do not allow any Post Drying Quality Assurance inspections ... which are ANSI/IICRC S500 mandatory and ANSI/IICRC S500 mandatory intrusive.
- Drying a mold filled kitchen and then covering up failed drying saves Carriers \$\$\$. The name of the game.
- The scam perpetuates since Plaintiff attorneys don't sue the Engineering firms that all have a min of \$1M Errors and Omissions insurance.
- Plaintiff attorneys just settle and move on. Carriers win. (Sad but true.)

WHAT IS THE STATED GOAL OF A MOLD ASSESSMENT?

The stated goal of a Mold Assessment is to determine:

- 1) Location and extent of mold for the purpose of developing a mold remediation plan/protocol/procedure. Intrusive inspection is key.
- 2) Determine the Origin of Mold for the purpose of fixing the Cause of Mold (leak/condensation). Intrusive inspection is key.
- 3) For an Insurance Claim, the goal of a Carrier Forensic Engineer's Mold Assessment is to not find Mold because Mold Damage is not Restorable by drying and it is cheaper to dry mold than to remove mold. Never ever an intrusive inspection. Here the focus is testing. Why?

- Why is the focus of Carrier Insurance claim investigations by Carrier “so-called” Forensic Engineers on air sampling and surface sampling?
- Because such sampling does not ever assess/detect the extent of mold inside of walls, or behind cabinets or ducting. Mold spores do not ever penetrate walls or ceilings or cabinets.
- Extensive Forensic Engineer's air sampling and surface sampling give the appearance of science but is neither science nor complies with Florida Mold Laws/Standards. It's Fraudulent.

GOAL: HAVE JUDGE RULE INSPECTION REPORT INADMISSIBLE

- FL Mold Assessors (Carrier so-called mold “experts” or “Forensic Engineers”) have no more than 2-days formal mold training.
 - And almost never formal training in proper (industry compliant) Water Damage Inspections.
 - And no required construction knowledge or training.
- Mold Assessors as Carrier experts often take large numbers of mold samples and many moisture and humidity readings under the guise that this makes the Inspection “scientific”.
- And then pads the report with worthless boilerplate to hide the fact that they have not followed **FL Mold Assessment Laws/ Standards**.
- Therefore, their report and conclusions cannot survive a properly formulated Daubert Challenge.
- Challenge the report. Have the Judge rule the report inadmissible.

- What are these Florida Mold Assessment Laws?

FLORIDA LAW: MOLD ASSESSMENT INCLUDES SAMPLING

The 2021 Florida Statutes. 468.8411 Part 1

(3) “**Mold assessment**” means a process performed by a mold assessor that includes the **physical sampling ...**”



- A Mold Assessment performed by a State Licensed Mold Assessor must include sampling/testing.
- But mold spores do not penetrate drywall or plaster. And is of limited value except for investigating mold growth in ducting.



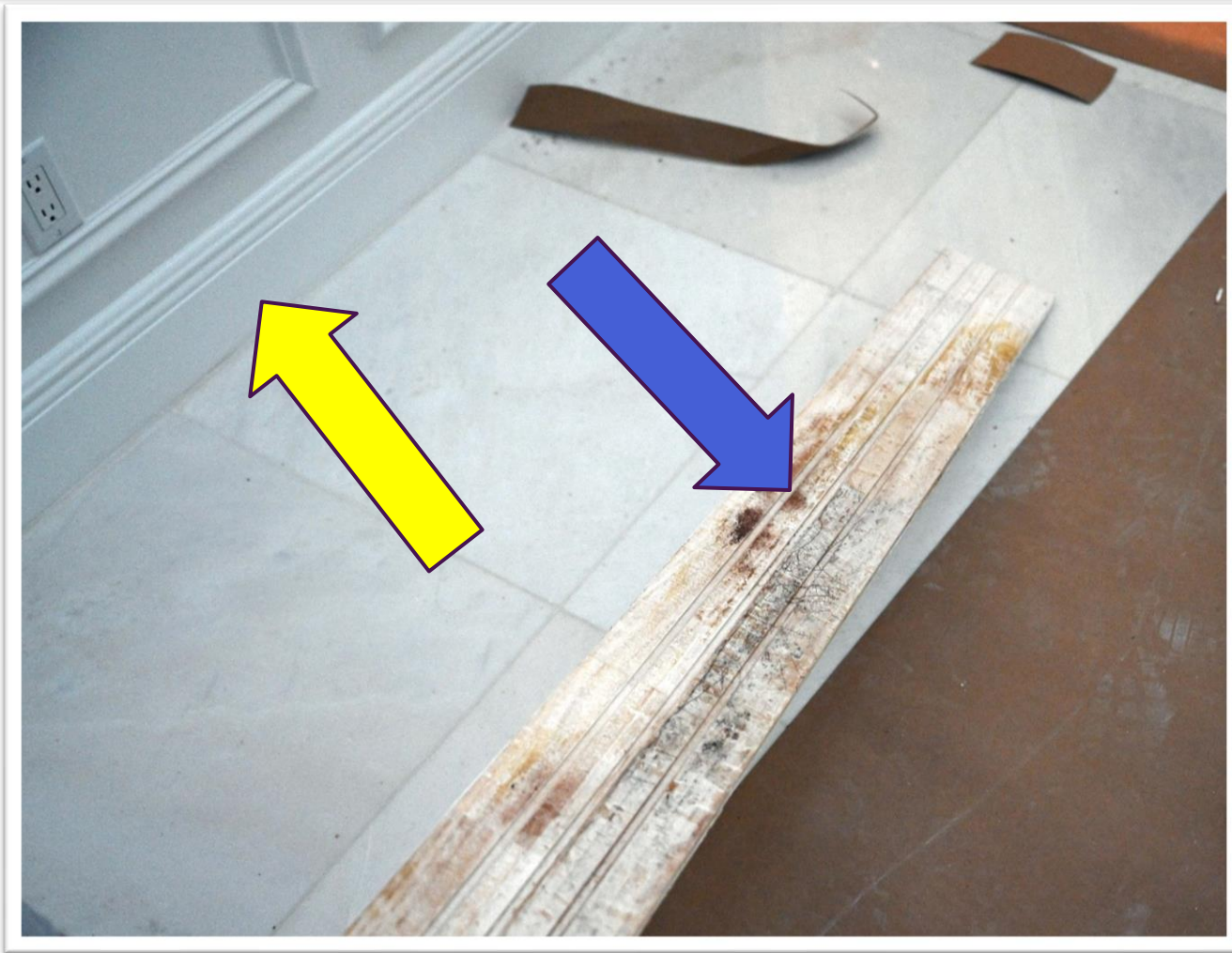
HIDDEN MOLD NOT DETECTABLE BY AIR SAMPLING CARRIERS MUST PERFORM INTRUSIVE INSPECTIONS



Hidden mold. Can ONLY
be detected by intrusive
inspection.

Plaster.

HIDDEN MOLD NOT DETECTABLE BY AIR SAMPLING MUST CHECK UNDER BASEBOARD



- Yellow arrow. Baseboard looks perfect. Freshly painted by seller.
- Blue arrow. Intrusive (non-destructive) inspection.

FLORIDA LAW: MOLD ASSESSMENT. MOLD ORIGIN.

The 2021 Florida Statutes. 468.8411 Part 2

(3) “**Mold assessment**” means ... initial hypothesis about the **Origin**

Hypothesis about Mold's Origin. Mold as a result of/from?

1. Occupants leaving the windows open while the AC was running.
2. Turning the AC off during the day and then on in the evening.
3. Setting the AC thermostat too high. Or not using the AC.
4. Pre-existing mold? Or new mold from roof leak, flood etc.?
5. Mold brought in on occupant's content.
6. Poor maintenance by landlord.
7. What did the unit look like before any roof issues/flood?
8. Did the Assessor inspect areas in the unit not impacted by roof leak/flood?
9. Did the Assessor perform Differential Diagnosis on mold Origin?

- As a general rule it is not usually possible to make such determinations during a non-intrusive inspection. The EPA recommends waiting to inspect until the remediation starts and then one can get a good look inside walls/ceilings, etc.
- Not possible to make such determinations (1-9) only by Sampling/Testing.

MOLD ASSESSMENT. DETERMINING MOLD ORIGIN

- Formulate a hypothesis about mold's Origin
- Florida Mold Law does not limit assessments to visible/ non-intrusive inspections.
- Florida definition of a Mold Assessment does not say surface only.



- Mold spores do not penetrate walls or ceilings or cabinets.
- But mold in ducting is exposed to / released to the indoor air of course.
- Therefore, inspections to find mold that Originates in ducting can be very valuable.
- But never performed by Carriers.

CRITICAL FLORIDA LAW. MOLD ASSESSMENT

The 2021 Florida Statutes. 468.8411 Part 3

(3) “**Mold assessment**” means ... initial hypothesis about [not only] the origin, [but also mold’s]

- identity,
- location, and
- extent of amplification of mold growth of
- greater than 10 square feet.

Mold Assessment per FLA Law MUST include:

- Formulate an initial hypothesis not only about mold’s (1) origin but also about about the (2) **identity**, (3) **location**, and (4) **extent** of amplification of mold growth (5) **> 10 sq ft.**
- If not, it is not a legal Mold Assessment.
- **If not a legal Mold Assessment, then whatever opinions the Carrier Assessor has regarding 1-5 have no legal basis.**

MOLD ASSESSMENT DEFINED BY FL MOLD LAW.

- Did the Mold Assessor only perform a surface inspection and air/surface sampling to attempt to determine the origin, identity, location, extent, of mold.
- Impossible to reliably determine **origin, identity, location, extent** by only checking/testing surfaces or air.
- If the inspection was surface only/not intrusive, it was not a DBPR compliant Mold Assessment. It was not legal.

- Carrier Forensic Engineers/Assessors DO NOT perform DBPR-defined **legal** Mold Assessments. Why?
- Because Engineers/Assessors never perform intrusive assessments that are needed to determine the **origin, identity, location, extent** of mold.
- Such determinations cannot be done by a visual surface-only inspection.
- Therefore, Carrier Mold Assessments are never legal/compliant.
- Illegal/noncompliant Mold Assessments should be challenged to have them be excluded by the Judge. That's his job as "Gatekeeper."

MOLD ASSESSMENT. > 10 SQ FT OF MOLD?

The 2021 Florida Statutes. 468.8411 Part 4

(3) ~~“FL Mold assessment Law”~~ applies only if mold ...

- greater than 10 square feet.

- Did the Mold Assessor only perform a surface inspection to determine if greater **than 10 square feet**.
- If they only performed a surface inspection, it was not a DBPR / compliant Mold Assessment. It was illegal.

- Did Carrier Assessor determine by an intrusive inspection if > 10 sq ft of mold within any wall or over any ceiling or behind/under cabinets or in ducting. If not, it was an illegal Assessment.
- If not, how can they write a useful and accurate mold remediation protocol? Impossible.
- Legal Assessments cannot be done by visual surface-only Assessment/Inspection procedures.
- Is there always > 10 sq ft of mold. Yes because mold grows fast.