

# Insurance Claim Tips for Mold Damage

## **1. TAKE MOLD CONTAMINATION SERIOUSLY.**

Mold can cause serious illness and property damage. Insurance claim representatives, adjusters and industry consultants are fond of dismissively telling policyholders that mold has been around as long as people have been living in houses. But with the introduction of mass-produced building products, tract home construction techniques, residential and commercial buildings have become more susceptible to developing mold contamination in any moist breeding ground. Mold contamination can destroy building products, finishes, furnishings, and belongings, and cause mild to serious health consequences to those exposed.

## **2. CALL YOUR INSURANCE AGENT AND REPORT A SUSPECTED CLAIM IMMEDIATELY. PUT EVERYTHING IN WRITING.**

Call your insurance agent immediately to report a suspected claim. Follow the phone call with a fax, an email and a letter. In a catastrophic flood or pipe burst claim, getting a remediation team in within the first 48 hours to begin drying out property can be crucial to preventing or containing mold growth. If you get the run-around from your agent, insurance company, independent adjuster, or restoration company, follow up with a fax, an email and a letter confirming their delay in responding. Be firm, but always be courteous.

Take detailed notes of every conversation, including the name, company, phone number, address, and job title of every insurance adjuster, representative, consultant and contractor you deal with. Confirm all agreements in writing. Insist that appointments and deadlines be honored. Keep a log or binder of all notes and letters. Ask for and keep business cards from everyone involved in your claim.

## **3. REVIEW YOUR POLICY CAREFULLY. UNDERSTAND YOUR COVERAGES.**

If you don't have a complete copy of your policy, get one from your insurance agent. Review the "declarations page," which tells you the coverages you have, the policy limits for each coverage, and the effective dates of the policy. Review the fine print of the policy from what's insured, what's excluded, and

what you have to do to prove your claim. Review any “endorsements” added on to the policy form to see if they change, eliminate or add coverages to your policy.

For more information on how to read your insurance policy, read our publication: [A simplified guide to your homeowners policy.](#)

**4. PROTECT ALL PROPERTY FROM ANY FURTHER DAMAGE, BUT DO NOT MAKE PERMANENT REPAIRS, AND DO NOT DISPOSE OF ANY DAMAGED PROPERTY UNTIL AFTER IT HAS BEEN INSPECTED.**

Turn off any water flow to broken appliances or pipes. Take any necessary emergency measures to protect the building and personal property from any further damage. Do not throw anything away until you have the permission of the insurance company, and you have documented its condition. In mold claims you may need to hang on to mold contaminated items until they can be sampled by a lab for mold content. If in doubt, wrap the items in plastic or seal them in a plastic bag and store them.

If there is roof damage to your building, you may need to hire a contractor to cover it with a plastic tarp or tent the building to protect against bad weather. If the insurer delays in authorizing these measures, or in getting back to you, confirm the insurer’s delay in a fax, email and a letter, and take whatever reasonable measures you can afford to protect the property. If your loss is covered, the insurance company should also cover the cost of any reasonable emergency measures you had to take to protect your property. It is not unusual for an aggressive insurer to deny coverage for damage resulting after the initial claim on the grounds that you failed to protect the property from further damage.

**5. PHOTOGRAPH, VIDEOTAPE AND INVENTORY ALL DAMAGED PROPERTY. DOCUMENT YOUR LOSS AS THOROUGHLY AS YOU CAN, AND DON’T EXAGGERATE, GUESS OR SPECULATE ABOUT THE LOSS OR THE VALUE OF ANY PARTICULAR PIECE OF PROPERTY.**

Photograph, videotape and inventory all damaged property. Make sure you record the date of the photos and videotape. It is important to document the source and extent of water intrusion, and visible mold contamination. Seal and save contaminated items. In a dispute with your insurer over whether any particular building component, finish, furnishing or belonging is contaminated, the item may need to be tested by a remediation consultant—the insurer’s and perhaps your own. Don’t throw these items away until any such issues are resolved in writing.

In most states a material misrepresentation, concealment or omission—even an unintentional one—made in connection with the claim—for example, claiming that an item was destroyed that really wasn’t, or substantially overstating the value of a damaged item—may give your insurer a valid excuse to reject the claim and even rescind the policy. It is not an uncommon tactic for adjusters and claim representatives who are predisposed to reject or lowball a claim, to ferret out even minor discrepancies between your first recorded statement and subsequent recorded statements, and argue that these discrepancies constitute material misrepresentations sufficient to reject your claim. Don’t give them the opportunity. Don’t exaggerate, speculate or guess about the loss or value of any particular piece of property. Make it clear to your insurer when your recollection may not be accurate, and when you are estimating value, and on what you are basing your estimate. It’s fine to insert “To Be Determined” for the value of items you’re not sure about. If you don’t have receipts to show what an item cost, get catalogs, statements from retail clerks, bank statements, credit card statements or statements from family members or friends. If all else fails, obtain a formal appraisal. Save this as a last resort, because your insurer will usually refuse to reimburse you for the costs of hiring your on appraiser and consultants.

Additional Claim Tips:

## **6. UNDERSTAND YOUR RIGHTS. LEARN YOUR STATE’S LAWS THAT REGULATE HOW INSURANCE CLAIMS ARE SUPPOSED TO BE HANDLED.**

Every state has statutes and regulations that set minimum standards for handling insurance claims. You usually can find these laws through your state department of insurance or insurance regulator website. To find your state department of insurance, visit the “State by State” help section [www.uphelp.org](http://www.uphelp.org). You can also call your state’s department of insurance or insurance regulator for information.

## **7. YOU MUST COOPERATE WITHIN REASON WITH YOUR INSURANCE COMPANY’S INVESTIGATION AND HANDLING OF YOUR CLAIM, BUT DO NOT GIVE A RECORDED STATEMENT, A SWORN STATEMENT OR A SWORN “PROOF OF LOSS” FORM UNTIL YOU ARE SURE YOU UNDERSTAND YOUR RIGHTS, YOUR INSURANCE COVERAGE AND THE FULL EXTENT OF YOUR CLAIM.**

You have a contractual obligation under your insurance policy to cooperate with your insurer in its investigation and handling of your claim. You do not have an obligation to allow yourself to be abused. In most states you and your insurance company have a reciprocal obligation to act in good faith and deal

fairly with each other to investigate and process your claim. This means that each of you should avoid taking any unreasonable position or doing or saying anything that would unreasonably frustrate each other's rights under the policy. The insurer should never make an unreasonable request to you. You should never refuse a reasonable request from your insurer for information related to your claim.

Your insurer may require you to give one or more recorded statements. Use your own tape recorder to tape your statement and the insurer's questions. More often than not, insurers and their attorneys delay or refuse to give you a copy of your recorded statement. Do not give a recorded statement until you are sure you understand your rights, your insurance coverages, and the full extent of your claim.

You may also be required to appear for an "[Examination Under Oath](#)" ("EUO"). Your insurer may hire an attorney to take your EUO. You may have an attorney present to represent you, but your insurer will not pay for your attorney. Do not appear for an EUO until you are sure you understand your rights, your insurance coverage and the full extent of your claim.

Your insurer may ask you to make available various documents related to your claim, including banking statements, investment reports, receipts and other personal financial documents. You are not required to produce your tax returns, but you are required to produce any other documentation reasonably related to your insurer's investigation of your claim. Your insurer can require you to produce these kinds of documents as long as they are reasonably related to its investigation. Do not provide these documents to your insurer until you are sure you understand your rights, your insurance coverage and the full extent of your claim.

Most policies require that you submit a "sworn proof of loss" form to your insurer within a certain amount of time after being provided the form. In most states you are contractually obligated to submit the sworn proof of loss within the time limit, or at least to substantially comply with the requirement, unless you get an agreement from your insurer for more time or an agreement to dispense with the sworn proof of loss. Do not submit the sworn proof of loss to your insurer until you are sure you understand your rights, your insurance coverages, and the full extent of your claim. It is not unusual for an aggressive insurer to use mistakes in the sworn proof of loss to reduce or reject coverage for a claim.

Aggressive insurers may keep asking you for more and more information, anticipating that at some point, you will draw a line in the sand. If, however, you refuse to comply with reasonable requests for a recorded statement, an EUO, a sworn proof of loss, or documents reasonably related to your insurer's

investigation, you may be giving your insurer a valid excuse to deny your claim, based solely your purported breach of the duty to cooperate. If you believe that any requests are unreasonable, ask your insurer to explain the reason for the requests in writing. Err on the side of caution. If in doubt, consult with a policyholder attorney, a public adjuster or your state department of insurance, before you say “no way” to a request that may—in retrospect—turn out to have been a reasonable one.

## **8. NEVER SIGN A RELEASE, WAIVER, INDEMNITY OR “HOLD HARMLESS” AGREEMENT WITHOUT PROPER LEGAL ADVICE.**

You should never have to sign a release to settle an undisputed claim. If your insurer, adjuster, consultant or contractor asks you to sign a release, waiver, indemnity or hold harmless agreement, ask them to explain why in writing. These kinds of agreements can be used to deprive you of rights and benefits forever. These kinds of agreements can obligate you to pay thousands of dollars for issues that come up down the road that you never anticipated. Consult a policyholder attorney as to your rights before signing any such agreement.

## **9. GET A SECOND OPINION. DON'T ACCEPT A LOWBALL OFFER.**

Be wary of “lowball” estimates from insurance friendly contractors. Get a second and even a third written estimate to repair and replace damaged property from reputable, independent professionals that you would hire to do the actual work. You are entitled to have your damaged property replaced with “like kind and quality.” Insist on it. When you can't match the remaining undamaged tile, wallpaper, carpeting, or other portions of undamaged property, you are entitled to have the entire “line of sight” replaced to match. Insist on it.

Make sure that you understand how your insurance policy pays out on covered claims. Some losses are paid on “actual cash value,” which in many states can mean either the “fair market value” or the cost to replace the property, less depreciation for age, wear and tear. Some losses are paid out on a replacement cost value. Your policy may permit your insurer to pay you actual cash value, and withhold the additional cost to replace property until you actually go out and replace it. In recent years, some insurers have attempted to also withhold an amount for contractor “profit and overhead.” Don't let them. Policyholder attorneys and some insurance regulators have successfully prevented insurers from withholding these amounts.

If you have a disagreement with your insurer over the amount of your claim, you may be required by your insurer to submit the dispute to “appraisal.” Appraisal is a form of binding arbitration to settle disagreements over the amount of your claim. It typically does not decide disagreements about what is covered, what is not covered, what caused the loss or poor claims handling problems, unless you and your insurer agree to submit those additional disputes to the appraisal. While appraisal was initially designed to be an inexpensive, informal resolution of insurance disputes, insurers have turned it into one of the most expensive, over-lawyered, dragged out sideshows in insurance claim resolution. If you cannot resolve a dispute with your insurer over the amount of your claim, or your insurer demands appraisal, you should consult with a policyholder attorney.

## **10. THOROUGHLY INVESTIGATE THE QUALIFICATIONS, LICENSE, AND REFERENCES OF YOUR INSURANCE COMPANY’S “APPROVED” CONTRACTOR BEFORE AGREEING TO HIRE THEM TO DO THE REPAIRS.**

You do not have to use consultants or contractors recommended or “approved” by your insurer to perform repairs. “Approved” contractors are typically contractors who have agreed to discount their labor and costs, and follow insurer guidelines, in exchange for a volume of business from the insurance company. If your insurer promises to “guarantee” the approved contractor’s work, the “guarantee” is generally limited to replacing any defective materials or correcting faulty workmanship. Your insurer is not insuring against any contractor delays, negligence or liability. Accordingly, do not use the “approved” contractor unless it is a contractor that you would independently hire to do the work after a thorough screening.

Be sure to check that each contractor’s license is valid, and for any complaints against the license. Be sure that the contractor is bonded and insured. You can usually find some of this information online at your state’s contractor licensing agency website.

## **11. GET PROFESSIONAL HELP IF YOU NEED IT.**

If you reach an impasse with your insurer, be sure to document the dispute fully in writing. Explain why your position is reasonable, and your insurance company’s position is not reasonable. If your dispute does not necessarily require legal advice, you may be able to resolve the dispute by calling your state’s department of insurance or insurance regulator, or by hiring a public adjuster. If your dispute requires legal advice, contact a lawyer who is experienced and specialized in representing policyholders.

If you need a qualified consultant for testing or advice about mold remediation, be sure to contact a qualified certified industrial hygienist (CIH) with experience in microbial contamination and testing. There are a lot of consultants out there who have jumped on the “mold bandwagon” without adequate training or experience. You can find a qualified firm in your area by searching through the American Industrial Hygiene Association’s website at <https://www.aiha.org/consultants-directory>.

## **12. MAKE SURE YOU KNOW ALL THE DEADLINES THAT MAY CUT OFF YOUR RIGHT TO FILE A LAWSUIT.**

All states have statutes of limitation that will cut off your right to bring a lawsuit against your insurance company if you don’t file a lawsuit in time. The statutes of limitation differ from state to state. Most property insurance policies have a shorter contractual limitation period that will cut off your right to bring a lawsuit against your insurance company if you don’t file a lawsuit in time. These periods are typically one year or two years after a loss occurs or after you first discover a loss. Sometimes the “clock” stops running during the time your claim is pending, and starts again once your insurer denies your claim. In most states your insurance company is required to tell you in writing that your claim is denied, and that the limitations clock is running. Make sure you understand all possible deadlines. Consult with a policyholder attorney sooner, rather than later. You will make it harder for a policyholder attorney to give you the representation you deserve, if you show up on her doorstep the day before the clock stops ticking.

## **13. REPORT ALL UNFAIR CLAIM HANDLING TO YOUR DEPARTMENT OF INSURANCE OR INSURANCE REGULATOR.**

Most state insurance regulators track policyholder complaints about their insurers and compile the results. The results may be available through your state insurance regulator’s web site. In some states you can file a formal complaint online. Insurance regulators also regularly compile “market conduct” reports on unfair claim practices. If you don’t file a complaint, you can’t make a difference.