USING TECHNOLOGY TRACKING IN CLAIMS INVESTIGATIONS P26 CLM Internship Program Ignites Excitement P30 FIFTY SHADES OF MOISTURE P34

IN THE C-SUITE WITH BERKLEY SOUTHEAST'S VP OF CLAIMS **P42**

Clains I Salagement AUGUST 2015 // ISSUE 8 // VOL. 4 STRATEGIES FOR SUCCESSFUL RESOLUTION



AREYOUREADY FOR OBERGEFELL?

Managing Employment Practices Liability Claims in the Age of Marriage Equality P18

A publication of

TheCLM.org

FEATURES

COVER STORY

18 Are You Ready for Obergefell?

Managing employment practices liability claims in the age of marriage equality.

By Matthew Bakota and Stephen Watring, Attorneys, **DUNLEVEY MAHAN & FURRY**

22 Hail and Roof **Investigations 2.0**

How technology is changing the field and making things safer.

BY RUSSELL ZECKNER, P.E., CFEI, FORENSIC ENGINEER AND PRINCIPAL CONSULTANT, DONAN ENGINEERING

26 Where's Waldo

Using technology tracking in claims investigations.

By Matthew J. Smith, Founder and President, Smith, Rolfes & SKAVDAHL CO. LPA

30 Insurance Industry **Firestarters**

CLM's internship program ignites excitement in millennials and insurers alike.

By BEVRLEE J. LIPS, MANAGING EDITOR



34 Fifty Shades of Moisture

Visual clues that tell the story of foundation water damage.

By RALPH E. MOON, Ph.D., CHMM, CIAQP, AND JEFF WILEMON, CIEC, GHD

42 In the C-Suite: Scott Jurek

Berkley Southeast Insurance Group's Vice President of Claims scores his own processes—and music.

By Taylor Smith, President, CLM Advisors

COLUMNS

EDUCATION

10 The Claims Leaders of Tomorrow Are in Your Office Today

By DONNA J. POPOW

INVESTIGATION

14 Are You Calling Me a Crook?

By MICHAEL LEAHY

WORKERS' COMP

16 Getting the Most Out of a Functional **Capacity Evaluation**

By MICHELLE BUCKMAN



DEPARTMENTS

Front Desk

Inside Risk

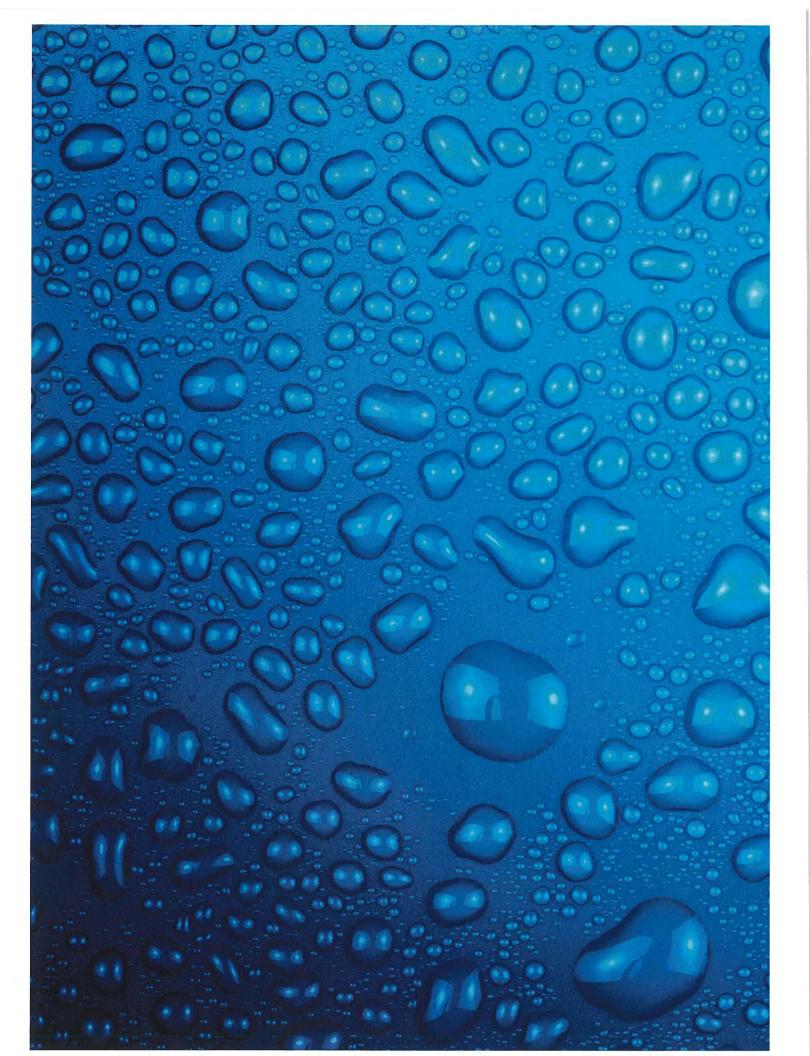
6 Exposure 39

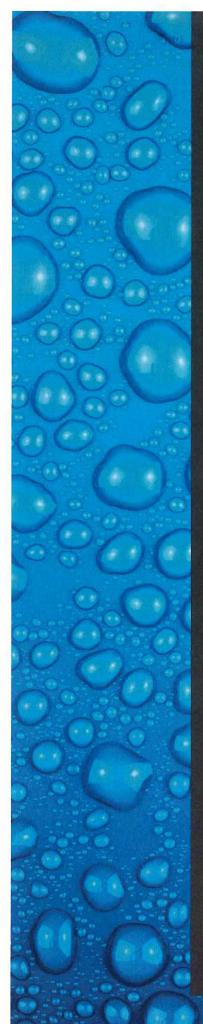
Around the CLM

8 Between the Lines

40 Around the Nation

A publication of





FIFTY SHADES OF MOISTURE

Visual Clues That Tell the Story of Foundation Water Damage

By Ralph E. Moon, Ph.D., and Jeff Wilemon, CIEC

thin trickle of water flowed down the concrete driveway to the street. It hadn't rained in weeks, so its presence was unusual. Dollarweed was abundant along the side of the waterfront home. Even before anyone entered the home, two clues were present as to why the wood flooring was swollen inside—the floor slab was chronically wet.

Here are 50 considerations associated with moisture problems. Each represents chronic, long-term features that should be considered when interpreting water loss claims.

High Water Table/Improper Drainage

There is nothing better than building on properly drained soil. Homes constructed in low-lying areas are prone to flooding and chronically wet foundations, which result in a host of flooring concerns, such as damp, moldy smelling carpet; swollen wood flooring; and discolored base trim. It is preferable to position the slab several feet above the water table. If you find a hole cut into a street curb, it is a dead giveaway for poor drainage conditions.

Structures built on or adjacent to historically wet environments (marshes or wetlands) pose a moisture concern. Plants like dollarweed and algae growth are excellent indicators of perennially wet soils. Dark or mucky surface soils or the detection of hydrogen sulfide odors in subsurface soil samples indicate chronically wet conditions.

Surface water elevations reflect the approximate depth to the water table. If the distance between the slab and the water surface is less than two feet, moisture may be a problem. A high water table may encourage water accumulation in basements and crawl spaces. Landscaping efforts (mulch, high organic soils, plant

debris) often elevate the perimeter grade and direct roof drainage toward the home.

Conditions to consider:

- 1. Is the parcel lower than the surrounding land?
- 2. Do neighbors have elevated septic tank drain fields?
- 3. Is there evidence of soil erosion where the land elevation has directed surface water to flow toward the parcel?
- 4. Is the parcel adjacent to a swamp or low-lying depression?
- 5. Do your feet sink into the soil or get wet when you walk around the property?
- 6. Are plant species that prefer perennially wet conditions present?
- 7. Is algae growth present on the sidewalk, driveway, or lower north wall?
- 8. Is there evidence of seepage above or soil "washout" beneath a concrete driveway?

Diminished Sensible Heat Load

The interior living space in shaded homes is often damp and cool. During the summer, trees, window shutters (closed), drapes, and window tinting not only reduce cooling costs, but also reduce the ability to manage interior moisture conditions (humidity). Under shaded conditions, the air conditioner is cooling and dehumidifying less frequently. HVAC systems managed by a thermostat alone require temperature change to initiate either heating or cooling. Without supplemental dehumidification, a shaded or shuttered home will increase in interior moisture content over a period of weeks and months and possibly encourage microbial growth and odors.

Solar orientation also influences the moisture content in high-rise apartments and condominiums. Units with large windows and doors that

face east and south will be warmer and drier than those that face west and north. The same condition is true for units on the shaded, lower floors. Inevitably, units in the shade or those that face north will have a greater probability of recurring moisture problems unless supplemental dehumidification is provided.

Conditions to consider:

- 9. Is there widespread shading from trees or adjacent units?
- 10. What is the predominant direction the windows and doors face?
- 11. Is solar exposure obstructed by elevated stairways, walkways, or porches?
- 12. Are windows covered by shutters, drapes, curtains, or window tint?
- 13. Is the unit near the bottom, middle, or upper levels?
- 14. Are neighboring units occupied (air conditioned) or vacant (ambient)?
- 15. Is the building shaded by another structure?

Roof Systems

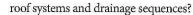
Several roof characteristics predicate a moisture concern. Flat roof assemblies are excellent candidates for leaks. Small exterior balconies and balconies constructed over porches are suspect, especially where leaves can block drainage. Balcony railing attachments are

difficult to properly fasten to underlying roof assemblies without causing a leak as materials expand and contract over time.

Roof amendments such as chimneys, solar and water heater panels, satellite TV dishes, HVAC units, and ductwork have metal components that expand and contract at rates different from their substrate and can cause separation and moisture penetrations. Elaborate roof systems with multiple pitches and flat drainage spaces can be leak candidates. Every roofline represents an opportunity for a leak. This concern is particularly common where water discharged from one roof plane is diverted to another, increasing the volume of water discharged to the receiving roof plane. Roof systems adjacent to leafy trees positioned above gutters are prone to blockage. Roofs that support vegetative growth indicate neglect, possible soffit damage, and likely moisture problems.

Conditions to consider:

- 16. Does the home have a flat roof, a balcony over a living space, or a flat roof interfaced with a gable roof?
- 17. Is there a deciduous tree canopy above the roof?
- 18. Are there various attachments (chimney, satellite TV dishes, HVAC, handrails, screened enclosures, solar panels) through the roof system?
- 19. Are there multiple or complicated



20. Do the walls adjacent to balconies exhibit vertical drainage stains or discoloration?

Doors and Windows

Doors and windows are unique assemblies inserted into walls. The materials used to construct doors and windows (aluminum, fiberglass, wood, glass, PVC, rubber gaskets, sealants) expand and contract at different rates than the walls due to their different material compositions. Movement eventually causes them to fail in the absence of maintenance. Competent drainage is provided by metal and adhesive flashing, sealants, fasteners, and paint. Several observed indicators can foresee moisture issues around doors and windows.

Conditions to consider:

- 21. Is there evidence of failure or separation among applied sealants?
- 22. Do weep holes along the base of the windowsill appear blocked, preventing drainage?
- 23. Is vertical staining or discoloration present beneath the window, suggesting moisture retention and poor drainage?
- 24. Are there sill penetrations such as screws, window alarm buttons, or fastener attachments?
- 25. Is there evidence of failed or improper installation?
- 26. Is condensation present on the interior side of the window or within dual thermal glass panes?
- 27. For wood partition walls, are the front surface window assemblies installed along the same plane as the outside drainage plane?
- 28. For concrete masonry unit (CMU) walls, are the window assemblies recessed and installed in the middle of the wall?
- 29. Are sliding-glass or French doors provided cover to prevent penetration at the threshold?
- 30. Does rainwater discharge off the roof onto walls, windows, or doors?
- 31. Are the door thresholds elevated four-to-six inches above grade?

Walls

The competency of a wall depends on how well it drains water. Cracks, separa-



RJN Investigations, Inc Specializing in Insurance Defense Level Investigations

With expertise in the following areas:

- Liability/subrogation
- Surveillance
- Interviews/Statements
- SIU Fraud Over 130 insurance convictions
- **Background Investigations**
- Deep Dive Social Network searches

24/7 secure web as our data is maintained on SSAE 16 Type II compliant servers

"Proudly serving the insurance and business community since 1987"

Toll Free: 888-323-3832 Toll Free Fax: 888-223-7283 CLM@rjninv.com

WWW.RJNINVESTIGATIONS.COM



tions, and penetrations allow water (vapor or liquid) to enter the building envelope. Brick façades are constructed with weep holes located along the base of the wall. These holes allow drainage and the entry of air to ventilate and dry. When the holes are blocked, the wall retains moisture and the interior wall can become wet. Walk the exterior of brick-faced walls and look for weep holes. If they are not present, they may be concealed by landscaping soil. If they are at or below grade, surface water may be entering the wall, and the soil level should be lowered to prevent moisture penetration.

When different building materials are used to construct a drainage plane (stucco and wood, wood and CMU, metal and concrete) independent movement (expansion and contraction) between these materials at the joint is inevitable. Typically, flashing and sealants protect these transitions from water penetration. Determine if they are present and, if so, examine for cracks, separations, and continuity in application.

Hurricane shutters, screen cage fasteners, and plumbing, gas, cable, and electrical connections often penetrate wall systems, leaving gaps and conveyances for water. As these systems age, the penetrations inevitably become larger. Examine these for the proper application of sealants.

Ivy growth on exterior brick and stucco walls may appear attractive, but they disguise penetrations in the drainage plane. Algae growth, most often observed on the north side of a home or adjacent to sprinkler heads, indicates surfaces that have sustained moisture. Algae growth and efflorescence will often appear on the outside of a CMU wall with a long-term plumbing leak or where moisture has penetrated the cold joint between the floor slab and the bottom of the wall.

Sliding-glass or French doors also pose drainage plane problems unless the doors are effectively covered. An unprotected door in a CMU or brick wall invites moisture accumulation along an unsealed threshold and lateral moisture penetration to the interior trim and flooring.

Cementitious coatings applied over two-story homes (second-story wood framing over first-story CMU) often lack an expansion joint between the stories. This technique allows for differential movement

of the coating, and in the absence of an expansion joint, a jagged crack will inevitably form between the two stories.

Elaborate exterior coatings applied over foam insulation, oriented strand board (OSB), and plywood tend to separate, requiring frequent resealing and painting. This "face seal" construction technique offers no forgiveness once moisture penetrates the wall. Moisture tends to reside, causing framing materials to swell and crack the exterior coating, while wood materials gradually deteriorate inside the wall. Without regular maintenance, it can render a home unlivable.

Styrofoam has a high thermal expansion, causing it to swell and shrink far greater than underlying materials. Over time, trim separations allow moisture to penetrate the underlying stucco and may initiate dissolution of calcium carbonate, causing a weeping effect (white precipitate) along the exterior.

Conditions to consider:

- 32. Do wall penetrations, shutter fasteners, pipe penetrations, or screened cage attachments appear competently sealed?
- 33. Are the mortar joints visible between the CMU block?
- 34. If the home is constructed with brick, are the weep holes visible?
- 35. Is algae growth or efflorescence

- present along the cold joint between the foundation and the wall?
- 36. Is there evidence of deterioration or moisture retention at joints between different materials?
- 37. Have elevated soils or mulch accumulated, or have they been placed against the walls of the structure as a landscaping feature?
- 38. Is there visible evidence of efflorescence, "weeping" out of the stucco, or cementious coated walls?
- 39. Is there evidence of unusual plumbing configurations, like drain pipes exiting through an exterior wall?

Entries, Foundations, Basements, and Crawlspaces

All foundations are vulnerable to moisture. Concrete slab-on-grade foundations are prone to moisture absorption because concrete absorbs water and the foundation is in direct contact with the soil. Water discharged next to a concrete foundation (HVAC condensate, irrigation, rain gutters) is absorbed via capillary action and affects flooring, interior trim, gypsum board, and contents tens of feet from the structure's perimeter.

Landscaping features attached to an exterior CMU wall that combine soil and decorative plant vegetation were popular in the 60s and 70s. These features behave like a tub of wet soil. Many are irrigated

Doubting if a **REPAIR** is an option to adjust a claim?





Visit us at www.nativoinc.net or call us for a free consultation.



WWW.NATIVOINC.NET

info@nativoinc.net • (1-877) 786-5489 • (954)-540-0087 11420 Interchange Circle N, Miramar, FL 33025

or receive rainwater discharged from the roof, creating a greater moisture risk.

Landscape architects often position soil against concrete or brick walls of commercial buildings to provide a "from the earth" sense of design. However, this represents a predictable moisture source that will cause interior dampness, wet walls, and "earthy" microbial odors.

Residential homes with pools often grade concrete patios toward the home with narrow slotted drainage. Water from the pool and adjacent deck is directed toward the small drainage feature, which often becomes clogged with debris. The initial consequences are subtle with modest moisture absorption that becomes increasingly serious over time and following storm events. Oftentimes the slotted drain is replaced with a narrow crushed stone trench next to the foundation. Both the slotted drains and the gravel-filled trenches can promote water retention next to the foundation. View these drainage features with suspicion.

Garages and patios are frequently converted to living space, which suggest possible moisture problems. First, the ceiling above a garage or patio may not be insulated, so efforts to air-condition these spaces are often problematic. Second, the grade of a garage or patio floor is typically lower than the home's floor, rendering a covering susceptible to dampness. Finally,

during home construction, the area beneath the living space is both elevated and lined with plastic sheeting to create a vapor barrier. The plastic sheeting prevents moisture absorption through the floor and maintains dry conditions. The concrete beneath the garage or patio may not be cast over a plastic liner.

Conditions to consider:

- 40. Are there any sources of free water that discharge next to the structure?
- 41. What is the elevation of the slab surface in terms of the surrounding
- 42. Has soil been placed next to the foundation or wall assembly?
- 43. What provisions allow effective drainage of rainwater away from the foundation?
- 44. Where does the water drain?
- 45. Is there evidence of room conversion. or addition?

Other Water Sources

Persistent discharge of water next to a building is an obvious feature. A three-ton air handling unit can produce as much as two gallons of condensate discharge per hour. On a summer's day, the production of five-to-six gallons of condensate would not be unusual. The continuous discharge of water into poorly drained soil could be absorbed by the

foundation. In a multifamily apartment setting, the volume of water could affect the first floor of the entire building.

Sprinkler systems, hose bibs, spas, and pool pumps that discharge onto or immediately next to the drainage plane of a structure represent a moisture risk. Interior water damage will ensue after months or years of exposure.

Roof downspouts are both a benefit (when clean) and a detriment (when obstructed). Obstructed gutters gradually damage roof soffits and fascia and encourage insect infestations. Roof gutters that discharge too close to the foundation can cause soil erosion, foundation dampness, and interior microbial growth.

Conditions to consider:

- 46. Is HVAC condensate water discharged within a foot or two of the foundation?
- 47. Are there multiple condensate discharges near the foundation?
- 48. Do wall and window stains indicate that the sprinklers discharge onto the
- 49. Is there evidence of obstructed roof drains?
- 50. Is there sufficient capacity for the gutters to manage the volume of water produced during a heavy storm?

Examination of exterior conditions may reveal chronic, long-term sources to interior moisture claims. A survey of the structure helps the claims professional to identify the potential continuity between the outside elements and the claimed damage inside the living space.

Our list of observed conditions is not exhaustive; there are hundreds of shades of moisture. Every structure responds to moisture differently depending on its geographic location, materials, drainage, solar orientation, and the peculiarities and attentiveness of its owner. Your site examination should prompt two basic questions: Is there evidence that moisture may be entering or exiting the home? And, if so, why? CM

Ralph E. Moon, Ph.D., CHMM, CIAQP, and Jeff Wilemon, CIEC, are with GHD, a worldwide consulting firm. They have been CLM Fellows since 2013 and can be reached at ghd.com.



The World's Largest Source of Workers' Comp Compliance and Claim Management Information.

- * Compliance Center with Email Updates
- * Massive Pre-Programmed Jurisdictional Form Library
- * 50 State Comparative Center
- * Benefit Calculators
- * Searchable Legal Library
- * And Much More

Contact Us For a Demo today! sales@workcompresearch.com

