

When It Comes to Fraud, Water Is On Fire

Fraudulent Water Damage Claims Are on the Rise

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Move over, arson-for-profit claims, there's a new kid in Insurance Fraud Town. For years, arson-for-profit was the preferred method of fraudsters in their attempts to bilk property and casualty insurers. It seems, however, that just as soon as we adapt to one scheme, those who attempt to defraud us are already in the process of perfecting another. Law enforcement, fire departments, and insurance investigators are continuing to develop new and more effective ways to fight arson-for-profit. In addition to better investigative tactics, the penalties for failed arson attempts are climbing steadily.

Those who stage losses are also changing their tactics, evolving, and looking for creative ways to enhance their schemes...which is why in the insurance fraud arena, water is on fire! These claims are steadily rising to the arson equivalent. The proper investigation of such claims can aid the industry in weeding out fraudulent claims and mitigating the enormous losses commonly associated with water damage claims.

While it is hard to imagine that every claim you adjust will end up in litigation, always remember that everything you do when adjusting or investigating a claim can either be utilized against you or assist in your defense. The strength of any defense is fortified by a detailed investigation. There are several water loss scenarios that you may be faced with. For example, when presented with a frozen pipe claim, the obvious question is whether the insured used "reasonable means" to maintain heat. If the insured reports that heat was maintained at a reasonable temperature and

the pipes froze during the recent polar vortex season, you may be tempted to quickly adjust the claim and move on with the remainder of your pending inventory. However, don't be too quick to dismiss the claim — water losses may not be as shallow as you think and a closer look may be required.

Investigating

The insurance policy is the first place to start in beginning your investigation. Remember, it is the insured's burden to establish a loss within the policy period, thus in the scenario identified above, the insured must establish that they used reasonable means to maintain heat in the property. There are also several basic questions that must be considered at the outset of such a claim. Was the property occupied by the insured or a tenant? Was there a time period that the property was vacant? If there was a tenant, was there a written lease in place? Was the duty to maintain heat delegated to another party? Understanding the type of water loss presented and seeking out the answers to these initial questions will assist in creating an investigative strategy when presented with a potential staged water loss.

You might not expect that water and fire losses have similarities. A constant element in many staged losses is the motive behind it. Foreclosure, domestic discord, and job loss are some common examples of motive. In addition, a well-planned water loss can be every bit as devastating as a fire in a home. A burst pipe on the second floor of a home can ignite just as much damage as a match in a basement.

While similarities exist, understanding the differences in investigating these claims will aid in fraud detection. Water loss claims present several obstacles to the insurance industry. The first is establishing the need for an investigation. Unlike arson scenarios, there will be no first responder or engineering professional advising the claim resolution professional that the cause of loss requires further investigation. The strength of the investigation will be driven by the knowledge, experience, and intuition of the claims resolution professional.

A significant difference between a water loss versus fire, is the general lack of danger or unintended consequence when choosing water as a method of destruction. In a residential arson-for-profit, the arsonist puts him or herself, family, pets, and/or neighbors at risk, not to mention the first responders who attempt to put the fire out. Should anyone be hurt, the perpetrator could be facing charges that go far beyond what they thought they were getting into. There is far less likelihood that flooding a home could severely injure someone or take someone's life. Because of this, when presented with a large water loss claim, you should take a deeper look at the initial claim presentation as it could yield information that you may otherwise ignore and assist in developing a timeline for your investigation.

Establishing a Timeline

The importance of a definitive timeline in any investigation cannot be overstated. Timelines help establish witnesses, whereabouts of the parties being investigated, and also help solidify forensics obtained at the scene. For fire investigators, the establishment of a timeline starts with the 911 call. This provides the investigator a definitive point in time to move both backward and forward in an effort to develop a clear picture of what occurred and when it occurred. Very few water losses involve 911 calls, and seldom do they require first responders.

Without law enforcement and first responders on the scene, there is far less likelihood of a criminal investigation. Witnesses to the loss, either in the discovery of the loss or in the insured's whereabouts before the loss, are less likely as well. A neighbor is far more likely to remember when a person left their home if smoke was billowing out of the windows hours later. Thus, there is a greater opportunity for the loss to go undetected for a longer period of time, allowing memories of the insured, neighbors, and passers-by to fade. One major risk to a would-be arsonist is drawing attention to the fire before it is able to cause enough damage. This risk is all but averted when choosing water to damage the home. This scenario easily increases the probability of extensive damage and makes a much broader timeline for the investigator to work with.

Some red flags to consider in developing the timeline for a water loss claim:

- Who reported the loss?
- Is there tangible physical evidence, such as the burst pipe, that is still available?
- If not, why was it destroyed?
- Was a plumber called out to the property?
- Is there documentation to support this?
- Have you interviewed the plumber?
- Are there photographs of the loss?
- Was there destructive tear-out of the property?

Understand the parties involved (including the insured and their representatives) and their claim history, background, and circumstances that led to the loss. The answers to these questions, or even the lack of answers to these questions, will assist in narrowly focusing your effort toward the investigation.

Forensic Experts

Another obstacle is the general lack of forensics. While investigating a fire, it is easy to take for granted the luxury of a controlled scene, fire officials working in conjunction with

cause and origin specialists, and proper evidence preservation. With a water loss, at best, you may have a knowledgeable tenant, plumber, or contractor to assist with piecing together the facts surrounding the water loss. By the time an investigator gets to the scene of a water loss, several days, weeks, or months may have passed. Further, the scene will likely have been compromised by a number of parties on behalf of the insured or the insurer.

Nevertheless, it is imperative to get a forensic expert on the scene who may be able to provide insights that will aid in your investigation. Quantitatively, there may be less forensic data to collect in a water loss, however, the quality of what still exists could be fruitful to your investigation. Depending on the type of water loss, you should consult with an engineer, plumber, or HVAC technician to assist in sorting through the data and providing their analysis. These experts will be able answer questions such as, does it make sense that the pipe would break in that fashion? Are the conditions in the home conducive to the pipe breaking in that location? Are there tool marks on the pipe or fitting? How much water passed through the home and how long would it have taken for that amount of water to pass through the home? What were the weather conditions on the purported date of loss? These are all questions that can be answered by a licensed professional.

Evaluating the Loss

Once the investigation and timeline are completed, it may make sense to move forward with a detailed recorded statement, or, if appropriate, an Examination Under Oath (EUO). This gives the parties involved the opportunity to present their claim and be confronted (if appropriate) with the information gathered, so that an informed decision can be made to evaluate the loss. The value of a statement or, more importantly, an EUO, is measured by the information gathered prior to that — so that the claim can be assessed from all possible angles.

The fact that water loss claims are on the rise should come as no surprise. We often see fraud schemes change as the industry changes. Therefore, investigative strategy must also evolve. It is not so simple to say that "the loss is a water loss, so we should move forward to settle." Understand the potential for a water loss claim to be much more than that. Outline your investigative strategy, hone in on your investigative curiosity, and engage your key experts to assist in resolving the claim.



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