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CONDO CONSTRUCTION DEFECTS 101

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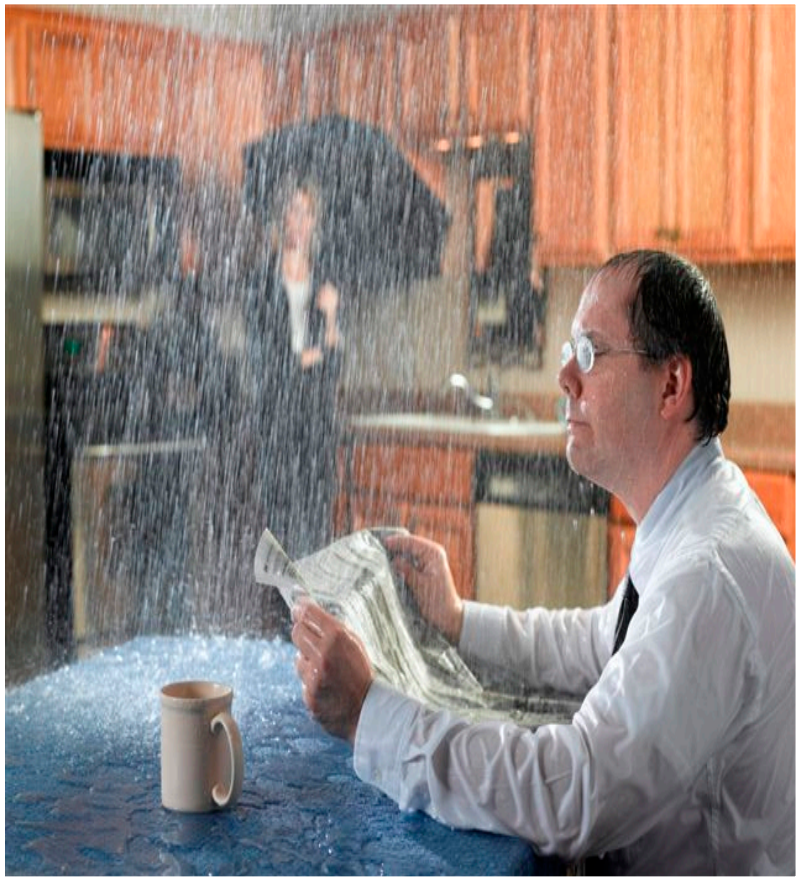
What is the Problem?
WATER INTRUSION

- Roof
- Windows
- Balconies/Walkways
- Sliders/Doors
- Cracked Stucco
- Concrete Work
- Mechanical & Electrical



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Developer Turnover Inspection Report

- §718.301(4)(p), *Florida Statutes*
- Florida engineer or architect must prepare report and it must attest to many items
- Don't trust it!

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Obtain Your Own Engineering Report

- Always hire your own Engineer or Architect to examine property thoroughly and produce a detailed inspection report

- §718.301(7), *Florida Statutes*

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IS THERE A WARRANTY?

- New Construction Warranty
  - §718.203, *Florida Statutes*
- Conversion Warranty
  - §718.618(6), *Florida Statutes*
- Who gives the Warranty (new construction)?
  - Developer
  - Contractor
  - Subcontractor
  - Suppliers

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What is Covered?

- New Construction? Everything!

- Conversion?
  - Conversion Warranty: §718.618(6), *Florida Statutes*
  - Who gives the Warranty? Developer Only
  - *No Warranty* if developer <u>properly</u> funds converter reserves

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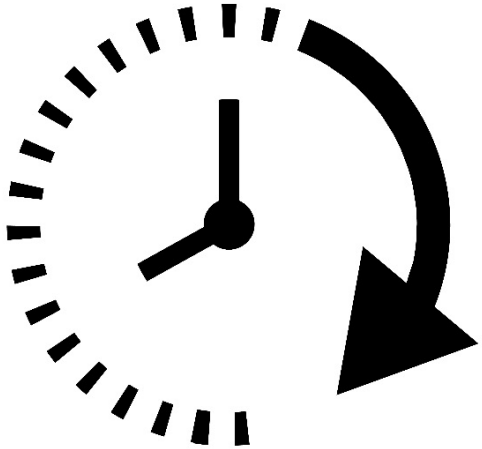
What is Deadline for Filing a Claim?

- 4 years from turnover
  - §95.11(3), *Florida Statutes*
  - §718.124, *Florida Statutes*
  - Find the turnover minutes!
- Chapter 558 tolling
- Latent Defects
- 10 year absolute bar (Statute of Repose)
  (courts are extending this)



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Who is the Claimant?

- The Association
- The Unit Owner(s)
- Matters of common interest

§718.111(3), *Florida Statutes*

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Who Can Be Sued? (New Construction)

- Developer
- Contractor
- Subcontractor
- Architect
- Engineer
- Insurance Company for any of the above

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Who Can Be Sued?

- Condo Conversions
  - Developer
  - Architect or Engineer that prepared the conversion report
  - Original Architect or Engineer
  - Converter Contractor
  - Converter Architect or Engineer
  - Insurance Company for any of the above

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What Are Your Claims?

- Breach of Statutory Warranty
- Breach of Express Warranty
- Negligent Construction
- Violation of the Building Code
- Violation of FLDUTPA

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What Are The Defenses?

- Failure to Maintain
- Failure to Mitigate Damages
- Spoliation of Evidence
- Failure to follow Chapter 558
- Betterment

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What Will Be Your Recovery?

- Repair Work
- Cost of Repairing Defective Condition
- Diminution in Value
- Loss of Use
- Statutory Interest
- Attorneys' Fees?

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Thank you!

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