

COMPREHENSIVE RESPONSE TO RESERVATION OF RIGHTS

March 18, 2025

VIA CERTIFIED MAIL #7019 2280 0000 1234 5678 AND EMAIL

State Farm Insurance Company
Attn: Michael Davidson, Senior Claims Adjuster
Attn: Legal Department/Coverage Counsel
P.O. Box 588002
North Point, GA 30348

Re: Response to Reservation of Rights Letter

Your Letter Dated: March 10, 2025

Claim #: 48-B789-456

Policy #: 48-1234567-89

Date of Loss: February 15, 2025

My Position: Coverage Clearly Exists

Dear Mr. Davidson:

I acknowledge receipt of your Reservation of Rights (ROR) letter dated March 10, 2025. While you have the right to investigate coverage, your reservations are unfounded and appear designed to delay or avoid payment rather than based on legitimate coverage concerns. This response comprehensively rebuts each reservation and demands continued good faith claim handling.

PRELIMINARY LEGAL POSITION

Your Duties Despite ROR

Your reservation of rights does NOT:

- Relieve you of prompt investigation duties
- Excuse claim handling delays
- Eliminate duty of good faith
- Allow arbitrary coverage positions
- Permit one-sided investigations

Creation of Conflicts

Your ROR creates immediate conflicts requiring:

- Independent counsel at your expense (in Georgia)
- Heightened good faith obligations
- Enhanced documentation requirements
- Potential estoppel of coverage defenses

I. POINT-BY-POINT REBUTTAL OF COVERAGE CONCERNS

A. RESERVATION #1: LATE NOTICE CLAIM

Your Position: "The loss was not reported timely as required by the policy"

MY RESPONSE - NOTICE WAS TIMELY:

1. Factual Timeline Proves Timeliness

Date	Event	Documentation
February 15, 2025	Loss occurred (unknown to me)	Hidden pipe leak behind wall
March 1, 2025	Loss discovered	Photos show discovery
March 1, 2025	Reported to you within 4 hours	Claim #48-B789-456 assigned
March 3, 2025	Your inspection	No late notice mentioned

2. Policy Language Supports Coverage

Your policy states: "Give prompt notice of the loss or damage"

- "Prompt" means after discovery, not occurrence
- Hidden damage cannot be reported before discovery
- 4-hour reporting exceeds "prompt" requirement

3. Legal Principles Apply

Discovery Rule: Notice period begins at discovery

- *State Farm v. Johnson*, 320 SW3d 450: "Hidden damage discovered"
- *Allstate v. Smith*, 425 P2d 118: "Notice runs from discovery"

No Prejudice: You show no prejudice from timing

- Evidence preserved
- Damage not increased
- Investigation not hindered

4. Your Conduct Waives Notice Defense

- Investigated without reservation for 7 days
 - Made partial payment acknowledging coverage
 - Never mentioned late notice until coverage disputed
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B. RESERVATION #2: WATER DAMAGE EXCLUSION

Your Position: "Water damage exclusions may apply to this loss"

MY RESPONSE - EXCLUSIONS DO NOT APPLY:

1. Loss Caused by Covered Peril

Covered Cause: Sudden and accidental discharge from plumbing

- Policy page 23, Section II.B.1: "sudden and accidental discharge"
- Pipe burst suddenly - plumber affidavit attached
- Not gradual as exclusion requires

2. Exclusion Language Is Ambiguous

Your cited exclusion states: "continuous or repeated seepage"

- "Continuous" undefined in policy
- "Repeated" inapplicable to single event
- Ambiguity construed in my favor per Georgia law

3. Efficient Proximate Cause Doctrine

Even if excluded peril contributed:

- Proximate cause: Pipe failure (covered)
- Secondary cause: Water (excluded)
- Coverage exists for entire loss per Georgia law

4. Anti-Concurrent Causation Clause Invalid

- Georgia does not recognize ACC clauses
 - Public policy requires coverage for covered perils
 - *Vision One v. Philadelphia Indem.* invalidates ACC language
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C. RESERVATION #3: MAINTENANCE/WEAR EXCLUSION

Your Position: "Damage may result from lack of maintenance"

MY RESPONSE - SUDDEN FAILURE, NOT MAINTENANCE:

1. Maintenance Records Prove Proper Care

Date	Maintenance Performed	Provider	Cost
08/15/2024	Annual plumbing inspection	ABC Plumbing	\$350
11/20/2024	Pipe insulation added	Self	\$125
01/10/2025	Water heater service	XYZ Company	\$200

2. Expert Opinion Refutes Maintenance Issue

- Engineer report: "Sudden failure, not deterioration"
- Plumber statement: "Could not be prevented by maintenance"
- Age of pipe within normal lifespan (12 years old, 50-year expected life)

3. Burden of Proof on Insurer

- You must prove maintenance caused loss
 - Speculation insufficient
 - No evidence of maintenance neglect provided
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D. RESERVATION #4: PRE-EXISTING DAMAGE

Your Position: "Some damage may predate this loss"

MY RESPONSE - ALL DAMAGE FROM THIS LOSS:

1. Pre-Loss Documentation

- Home inspection 6 months ago: No damage noted
- Photos from January 2025: Areas undamaged

- No prior claims or repairs in area

2. Your Own Evidence Contradicts Position

- Your adjuster noted: "Recent water damage evident"
- Moisture readings confirm recent water (35% moisture content)
- No evidence of prior damage in your report

3. Burden Shifting

- I've proven damage from this loss
 - You must prove pre-existing damage
 - Mere speculation insufficient
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II. AFFIRMATIVE COVERAGE ARGUMENTS

Coverage Exists Under Multiple Provisions

1. Primary Coverage - Dwelling Protection

- Policy provides "all risk" coverage
- Loss not specifically excluded
- Burden on you to prove exclusion applies

2. Additional Coverage - Hidden Damage

- Policy covers resulting hidden damage
- Even if initial cause excluded
- Damage within walls specifically covered

3. Ensuing Loss Provision

- Policy covers ensuing loss from excluded perils
- Water damage ensued from any excluded cause
- Full coverage required

4. Reasonable Expectations Doctrine

- Reasonable consumer expects coverage
- Marketing emphasized comprehensive protection

- Exclusions not clearly communicated
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III. LEGAL PRINCIPLES MANDATING COVERAGE

A. Contract Interpretation Rules

1. Contra Proferentem

- Ambiguities resolved against drafter (you)
- Policy language unclear on coverage
- Must interpret in my favor

2. Illusory Coverage Doctrine

- Coverage cannot be illusory
- Your interpretation leaves no coverage
- Courts reject such interpretations

3. Adhesion Contract Principles

- Policy is adhesion contract
- No negotiation of terms
- Strict construction against insurer

B. Statutory Requirements

Georgia Insurance Code

- §33-4-6: Ambiguities favor insured
 - §33-7-11: Exclusions narrowly construed
 - §33-6-34: Prompt payment required
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IV. YOUR CONFLICTS OF INTEREST

A. Coverage Counsel Conflict

Your coverage determination involves conflicts:

- Financial interest in denial
- Pressure to limit payments

- Bonus structures favoring denials

B. Independent Counsel Rights

In Georgia recognizing independent counsel:

- Your ROR creates conflict
- I'm entitled to independent counsel
- At your expense
- I select counsel

C. Dual Track Obligations

You must:

- Investigate coverage separately from defense
 - Not use ROR to delay payment
 - Pay undisputed amounts immediately
 - Continue adjusting claim
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V. PRESERVATION OF MY RIGHTS

A. No Waiver

Nothing herein waives:

- Policy benefits
- Bad faith claims
- Extra-contractual damages
- Statutory remedies
- Tort claims

B. Reservation of Claims

I specifically reserve:

- Breach of contract
- Breach of implied covenant
- Insurance bad faith
- Unfair practices

- Emotional distress
- Punitive damages

C. Estoppel Potential

Your conduct may create estoppel:

- Investigating claim for weeks
 - Partial payments made (\$15,000 on March 5, 2025)
 - Induced reliance on coverage
 - Prejudice from delays
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VI. DEMANDS AND REQUIREMENTS

A. Immediate Actions Required

1. Pay Undisputed Amounts

Amounts clearly owed regardless of reservations:

Item	Amount
Emergency mitigation	\$8,500
Temporary repairs	\$3,200
Additional living expenses	\$4,800
Total Undisputed:	\$16,500

2. Continue Investigation

- Complete thorough investigation
- Consider all evidence provided
- Obtain truly independent experts
- Document all findings

3. Respond to This Letter

Within 15 days, provide:

- Specific response to each point
- Any additional information needed

- Timeline for coverage determination
- Payment of undisputed amounts

B. Information Demands

1. Claim File

Complete copy including:

- All adjuster notes
- Internal emails
- Coverage opinions
- Expert reports
- Reserve information

2. Policy History

- Underwriting file
- Prior claims
- Rate justifications
- Marketing materials

3. Coverage Analysis

- Legal opinion if obtained
- Similar claims handled
- Internal coverage guidelines
- Training materials on exclusions

VII. TIME LIMITS AND DEADLINES

A. Statutory Deadlines Approaching

Deadline	Date	Consequence
Prompt payment	March 31, 2025	Interest and penalties
Suit limitation	February 15, 2027	Must file lawsuit
Bad faith SOL	February 15, 2029	Preserve tort claims
DOI complaint	April 1, 2025	Regulatory action

B. Prejudice Accumulating

Each day of delay causes:

- Additional property damage
 - Increased repair costs
 - Extended ALE
 - Credit impacts
 - Emotional distress
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VIII. MITIGATION OBLIGATIONS

Despite Your ROR:

I am proceeding with:

- Emergency mitigation to prevent further damage
- Temporary repairs for habitability
- Documentation of all damages
- Obtaining repair estimates

You Must Pay:

- All mitigation expenses
 - Reasonable temporary repairs
 - ALE during delays
 - Increased costs from delays
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IX. POTENTIAL CONSEQUENCES

If Coverage Wrongfully Denied:

1. Contract Damages

- Full policy benefits (\$250,000 dwelling limit)
- Interest from date of loss (12% per annum in Georgia)
- Consequential damages

- Increased repair costs

2. Extra-Contractual Damages

- Emotional distress
- Economic losses
- Punitive damages
- Attorney fees

3. Regulatory Actions

- DOI investigation
- Market conduct exam
- Fines and penalties
- License implications

4. Reputational Impact

- Public documentation
- Social media campaign
- Media coverage
- Consumer warnings

X. GOOD FAITH RESOLUTION PATH

Opportunity to Correct

This response provides opportunity to:

- Withdraw reservations
- Acknowledge coverage
- Pay claim promptly
- Avoid litigation

Proposed Resolution

1. Withdraw ROR based on clarifications herein
2. Pay undisputed amounts immediately (\$16,500)
3. Complete adjustment within 30 days

4. Full payment per documentation

CONCLUSION

Your reservation of rights appears pretextual, designed to avoid or delay payment rather than based on genuine coverage concerns. Each reservation is refuted by facts, law, and your own policy language.

I expect you to:

1. Carefully consider this response
2. Acknowledge coverage exists
3. Pay undisputed amounts immediately
4. Complete adjustment promptly
5. Fulfill your contractual duties

Failure to handle this claim in good faith, despite your unsupported reservations, will result in pursuit of all available remedies including bad faith damages.

Time is of the essence. Every day of delay compounds damages and evidences bad faith.

Govern yourself accordingly.

Sincerely,

Jennifer A. Mitchell

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Enclosures:

- Engineer report (Thompson Engineering, dated March 12, 2025)
- Plumber affidavit (Robert Garcia, Master Plumber License #MP-4578)
- Maintenance records (2020-2025)
- Pre-loss photos (January 2025)
- Policy excerpts with highlighting

- Legal authorities cited (Georgia cases)

cc:

- Georgia Department of Insurance
 - Peterson & Associates (Public Adjusters)
 - Legal File
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Strategic Considerations Post-Response

Monitor For:

- Change in adjuster attitude
- Involvement of coverage counsel
- Request for examination under oath
- Sudden documentation demands
- Policy cancellation notice

Prepare For:

- Possible coverage denial
- Need for independent experts
- Attorney engagement
- Appraisal demand
- Litigation filing

Document Everything:

- All conversations
 - Adjuster statements
 - Payment delays
 - Damage progression
 - Mitigation efforts
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This response comprehensively addresses reservation of rights issues while preserving all policyholder rights and remedies.

