

TIPS FOR POLICYHOLDER LAWYERS

San Diego County Volunteer Lawyers Program

Fire Loss Claims – November 6, 2007

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1. Confirm representation in writing

If you are communicating with insurer, confirm your representation of the insured in writing. Insurer may later argue your failure to do so renders deadlines in the Fair Claims Settlement Practices regulations inapplicable.

2. Obtain complete copy of insurance policy

Policy language is not uniform. Significant variations will affect coverage for particular homeowner. Therefore, you need to get a complete copy of the policy. If homeowner does not have complete copy, get help from broker – they are required by law to maintain copies. Complete policy includes basic form, declarations page, and all endorsements.

3. Read policy carefully before answering client questions or communicating with insurer

Remember, endorsements may add, delete or limit coverages.

4. Calendar applicable dates, especially contractual statute of limitations.

Most policies contain “private” statute of limitations, often **one year from date of loss**. Calendar this date, as well as dates within which insurers promise to do something, or are required by law to do something.

5. Instruct client to assemble, organize and safeguard evidence of loss

Client should obtain photographs/video from friends/family that may assist recollection, should store all paperwork relating to insurance claim in one place, and should carefully document all post-fire living expenses and communications

6. Document all communications with insurer in writing, especially promises by insurer to do anything

If its not in writing, it didn't happen!

7. If necessary, push insurer to comply with deadlines imposed by California law

If insurer is not being diligent, **in writing**, remind it of deadlines set forth in FCSP Regulations, and describe in detail hardship caused by failure to comply. Copy letter to claims supervisor, and if that doesn't work, to claims manager and/or vice president of claims.

8. Do not give insurer opportunity to accuse you or your client of delay

The most common excuse give by insurers for delay in their performance of obligations is to accuse you or your client of being the cause of the delay. Whenever the insurer asks for anything, **get it done ASAP!**

9. Cooperate fully with investigation

Second most common excuse given by insurers for delay in performance of obligations is failure to cooperate. Most policies contain covenant of cooperation. Cooperate fully with reasonable requests for information.

10. The squeaky wheel gets the grease

If insurer is not being diligent, polite but persistent communication is the key. In extreme cases, point out consequences of delay or other unreasonable conduct, including bad faith liability.