

# McGuireWoods

## Tips for Individuals and Businesses To Maximize Recovery in Wildfire Insurance Claims

January 22, 2025

Presented by

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# Presentation Overview

- An overview of the insurance claims process
- A summary of the key coverages most relevant to insured homeowners and businesses
- Tips on how to effectively communicate with insurers
- Ways to stay organized throughout the claims process
- Documenting and supporting claims
- Complying with deadlines and other conditions to coverage
- Negotiating with insurers

# The Claims Process

- Reviewing the policy and understanding the scope of coverage afforded
- Notice and reporting
- Gathering data and support
- Claim acknowledgment
- Claim investigation and adjustment
- Verifying the insurance claim
- Coverage determination, claim settlement, and payment
- Appraisals, litigation, mediations, or other adversary proceedings, if necessary

# Key Lines of Insurance and Coverages for Fire Losses

- Homeowners and Renters Policies
  - Repair/rebuild the home
  - Personal property
  - Additional Living Expenses (ALE)
- Commercial Property Policies
  - Repair/rebuild the insured locations
  - Business property (buildings, machinery, equipment, inventory, etc.)
  - Time element coverage (business interruption, and other coverages)
- Specialized Risks/Other Lines (e.g., Event Cancellation)

# A “Deep Dive” on Homeowners Coverage

- Dwelling coverage
  - “Actual Cash Value” (ACV) as baseline
  - Many policies provide replacement cost coverage, although typically only if homeowner rebuilds (and may be subject to stated limit)
  - Extended replacement cost coverage, if purchased, can increase coverage to account for unforeseen cost overruns
- Personal contents coverage
  - Typically subject to a stated limit (often framed as a percentage of your dwelling coverage)
  - If homeowner suffered a total loss, insurer obligated to advance 30% of dwelling coverage for personal contents, up to maximum of \$250,000, without requiring inventory
  - ACV vs. replacement cost coverage
- Additional living expenses
  - Increased living expenses during rebuild (e.g., cost of a rental, hotel expenses, etc.)
  - Typically subject to sublimit, although extensions may be afforded under California law
  - In total loss situation, insurer must advance four months of additional living expenses upon request

# Commercial Property Coverage

- Property damage coverage for structure, equipment, and other business personal property
  - ACV vs. Replacement Cost
  - Options to replace elsewhere, modify footprint, etc.
- Business interruption coverage
  - Covers lost profits for hypothetical “recovery period” (i.e., rebuild period)
  - Generally requires property damage at insured location
- Time Element Coverage Extensions
  - Not always included, but often available under commercial property policies
  - Generally do not require property damage at insured location
  - Civil authority coverage
  - Ingress/egress coverage
  - Service interruption coverage
  - Contingent time element coverage
    - Supply chain disruption
    - Customer disruption

# Applicable Specialized Lines of Coverage

- Certain businesses present unique risks that may not be fully addressed through standard commercial property insurance policies
- Event Cancellation Coverage
  - Typically a stand-alone policy purchased for a particular event or series of related events
  - Covers lost profits associated with the cancellation, abandonment, or nonappearance at covered live events
    - Sporting events, festivals, concerts, conferences
  - Can cover costs associated with relocating event, in addition to lost profits
- Motion Picture and Television Production Insurance
  - Can insure a film, a television show or series, or a portfolio of films or television productions
  - May cover losses damage to props, sets, wardrobe, and equipment
  - May also cover financial losses associated with delays in filming or production due to covered peril



# Communicating With Insurers

- Method of communication (e.g., phone versus email)
- Timing of communication
- Who should speak on your behalf?
  - Public adjusters
  - Attorneys
  - Forensic accountants and other claims consultants
  - How about insureds on their own?
- Documenting communications (make the record)



# Insurance Claim “Housekeeping” – Best Practices

- Find your policy; read your policy form and endorsements
- Document all elements of loss and damage
- Track costs and expenses
- Stay organized and diligent
- Careful, thoughtful action
- Truthful, supportable statements about the loss
- Cooperation and compliance – support your claim
- Understand the loss appraisal process (if necessary)
- Generally, know your rights and legal options

# Key Deadlines for Claim Handling

- Deadlines that can impact or bar coverage:
  - Insureds' Timing Requirements:
    - Notice “as soon as practicable”
    - Proof of loss submissions (often as little as 30 to 60 days, although exceptions are common)
    - Suit limitations periods
  - Insurers' Timing Requirements:
    - Acknowledge receipt of claim (15 days)
    - Respond to claim communications (15 days)
    - Respond to proof of loss (45 days)
    - Update insured on claim investigation (30 days)
    - Pay undisputed amount of loss (30 days)

# Compliance with Conditions to Coverage

- Notice and reporting
- Duty to mitigate damage and minimize losses
  - Mitigation efforts generally recoverable, either per express provision in the policy or through insurer's statutory obligation
- Sworn statements to support loss
  - May be required under policy within specified deadline, although extensions are common
- Appraisals
- Timely filing of suit

# Claim Settlement Negotiations

- Every insurance claim, insurer and adjuster are different
- Understand your policy and scope of coverage
- Documenting evidence – let your “record” create leverage
- Consult with professionals when appropriate
- Consider when to escalate
  - Mediations
  - Appraisals
  - Litigation

# Questions?



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