

North Bay fire victims should be aware of deadlines to sue their homeowner insurers

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As the first anniversary of the North Bay wildfires approaches, people who lost their homes in the natural disasters should take steps to ensure they do not lose the ability to sue their homeowner insurers if they think they have been treated unfairly, according to a consumer advocate and attorneys.

Deadlines for filing such a lawsuit against an agent, broker or insurance company can vary between one to two or more years after damage or destruction of insured property, depending on the contract and type of lawsuit, said Amy Bach, executive director of United Policyholders, a San Francisco-based consumer advocacy group.

The timeline, however, can be put on hold while an insurance claim is being processed, essentially stopping the clock on the lawsuit deadline. The clock does not start again until the policyholder is notified by the insurance company of a final denial of the full amount of a claim.

The vast majority of Sonoma County fire victims — more than 5,200 homes were destroyed — have not received an official closing of the claims process from their residential property insurers as they push to receive full payouts to reimburse them for losses, attorneys said.

For example, homeowners in Sonoma County incurred \$7 billion of insured losses from the 2017 fires, but insurers only had paid claims worth \$5 billion as of May 18, according to the state Department of Insurance. Those are the latest insurance claims and loss figures available from the state.

“Fire victims have no need to panic about filing a lawsuit since the denial of coverage has not been sitting around for 12 months yet,” said John F. Friedemann of the Friedemann Goldberg law firm in Santa Rosa.

Still, experts cautioned that fire victims should be sure to understand their policyholders’ rights and contact their insurance companies, especially to fully understand deadlines required to provide proof of an insured loss, Bach said. United Policyholders has a page on its website that offers suggestions.

“Insurers will often be very vague when they close the claim,” she said.

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Policyholders should write to their insurers and provide their own timeline of the claims process as they understand it, Friedemann said.

That would place the onus on the insurance company to disagree with the deadline, he added, which could hold up in court if there ever is a dispute over it.

Those who claim their insurers committed fraud by underestimating the amount of property insurance they needed to rebuild their homes at current construction costs could have up to two years to sue their insurers, said Michael J. Bidart, a Claremont lawyer who is representing local USAA policyholders in such a suit.

Some may opt not to sue, however, and could go through a mediation process with the state insurance department to try to get more compensation. So far, 508 policyholders suffering property damage during the 2017 North Bay fires have gone through mediation and have recovered more than \$46 million, said Nancy Kincaid, a spokeswoman for the state insurance department.

The mediation process would be good for those who have a small shortfall in insurance coverage necessary to replace their homes, because a lawyer likely would not take such cases to court because the possible payouts would not be worth it, said Daniel J. Veroff, a San Francisco lawyer who is representing local fire victims. For example, Veroff said he would be reluctant to take a client who had less than a \$300,000 insurance shortfall.

Those who go through mediation, he said, would probably benefit with assistance from an attorney given that insurance companies are quite experienced at the process.

"The costs can be relatively contained," Veroff said of the legal costs to go through mediation.

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