

[Two Sonoma County men file lawsuit, urging state to protect fire survivors from unlicensed adjusters](#)

The Press Democrat

Two Sonoma County men are suing the California Department of Insurance for allegedly allowing out-of-state insurance adjusters to work illegally in the state without proper registration, enabling unsupervised adjusters to dole out costly bad advice to wildfire survivors.

Plaintiffs Jeff Sengstack, who lost his Santa Rosa home in the October 2017 wildfires, and Jon Eisenberg, his friend and a Healdsburg attorney who volunteered in the firestorm's aftermath to help people with insurance questions, are asking a judge to order Insurance Commissioner Ricardo Lara to take a stronger stance toward these adjusters by more strictly regulating their activities.

They argue the state agency didn't properly investigate complaints that these unlicensed adjusters regularly misinformed people about their rights under California law. Adjusters wrongly told wildfire survivors they could not receive full replacement costs if they decide not to rebuild and gave incorrect deadlines for receiving benefits, according to their complaint, filed in November in San Francisco Superior Court.

"We're trying to say to the commissioner: Please do your job. You have reason to believe there are out-of-state adjusters coming after these conflagrations and they're giving bad advice," said the men's attorney, Neil Goteiner. "We ask you the commissioner) to figure out whether or not this is happening and whether on a widespread basis homeowners are getting false information."

Officials with the California Department of Insurance defended the agency's efforts to supervise and regulate adjusters from outside the state. A department official said agency officers were on the ground monitoring activities in Sonoma County while the fires still burned. On Nov. 20, then-commissioner Dave Jones issued a formal notice to insurers, public adjusters and carriers to correct some of the inaccurate information about benefits required by state law.

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<https://uphelp.org/two-sonoma-county-men-file-lawsuit-urging-state-to-protect-fire-survivors-from-unlicensed-adjusters/> Date:

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“The Department of Insurance believes that petitioners’ complaint and the lawsuit is an effort to manufacture a problem that does not exist, and we expect to prevail in court,” Michael Soller, deputy insurance commissioner, said in an emailed statement.

“This is the only complaint we have ever received about somebody being named on the wrong list, and we took appropriate action.”

The department tried to argue to a judge that the plaintiffs cannot sue the agency, but last month a San Francisco Superior Court judge rejected the petition and allowed Sengstack and Eisenberg to move forward with their claim, stating the “plaintiffs allege sufficient ultimate facts showing that the commissioner is acting arbitrarily and failing to perform his mandatory duty.”

On Wednesday, Commissioner Ricardo Lara filed a petition with the 1st District Court of Appeal, arguing the court can’t compel a state officer “to exercise his discretion in a particular manner,” according to the 54-page document. That appeal is pending.

In the wake of a significant disaster like the 2017 wildfires that destroyed about 5,300 homes in Sonoma County, these so-called catastrophe adjusters come from across the country to help handle the large volume of claims from policyholders left with destroyed or damaged houses.

California and other states have provisions allowing these adjusters to enter the state and work under supervision of state licensed entities to assist with the workload.

Insurance companies must submit lists of these transient workers to the state under the regulations, intended to ensure they receive training and supervision about California laws.

California law gives policyholders greater protections and payouts than most other states — and that’s where the advice of an out-of-state adjuster can potentially cause people to lose out on significant benefits, like the decision where to rebuild.

Amy Bach, executive director of United Policyholders, a San Francisco-based insurance consumer advocacy group, said misinformation from catastrophe adjusters is common, and something her organization aggressively works to counteract it.

Bach’s organization held more than a dozen events in Sonoma County after the fires to educate policyholders about their rights. Eisenberg was one of their volunteers in the immediate aftermath.

Bach, whose organization advocates for policyholders across the country, said she considers the California Department of Insurance to be a very consumer-friendly agency compared to its counterparts in other states. Bach said she prefers to collaborate with the department, but she sees value in what Eisenberg and Sengstack are attempting to do with their lawsuit.

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“The Department of Insurance, they’re always under pressure from insurance companies, so it’s not entirely bad for them to get pressure from the consumer side,” Bach said.

Widely documented problems with out-of-state adjusters providing inaccurate advice may lead to changes to state law. In February, State Sen. Bill Dodd, D-Napa, introduced Senate Bill 240, which would put greater requirements — including specific training about state rules — on unlicensed adjusters who come into California after emergencies.

Eisenberg said change can’t wait.

“The reason why? There will be more fires and more incompetent adjusters. It’s a big problem of great urgency,” he said.

Eisenberg is comfortable taking on the government. He challenged the post-9/11 wiretapping program run by both the Bush and Obama administrations, serving as the attorney of two lawyers who said they were spied on without warrants because of their work representing an Islamic foundation nonprofit.

He also represented a group of detainees at the U.S. prison in Guantanamo Bay, Cuba, in a lawsuit filed to stop government-led force-feedings of inmates involved in a hunger strike.

None of those cases resulted in a clear-cut win, but Eisenberg said he believes the lawsuits forced issues to be addressed. In the case of the force-feeding, the inmates ultimately were released.

And in the wiretapping cases, he said judges issued influential opinions describing the government’s surveillance program as unconstitutional.

“In the force-feeding litigation and wiretapping cases, my goal was to establish what the government was doing was illegal and immoral,” Eisenberg said.

“Now what I’m trying to do is to get a government agency to enforce the law.”

Sengstack and his wife, Birgit Meitza-Sengstack, barely escaped the Tubbs fire. A neighbor pounded on the door of their home in a wooded Wikiup neighborhood, awaking them sometime after 1 a.m. on Oct. 9, 2017. Minutes later, their house was engulfed in flames, he said.

They drove to a parking lot on the west side of Highway 101 and — with their birds, one of their two cats and little else — they watched from a distance as their hillside burned.

They discussed where to go, realizing how many of their close friends were also likely displaced. Birgit Sengstack then suggested they call their friends in Healdsburg, Eisenberg and his wife, Linda Hillel, who in 1991 lost their home in the Oakland Hills fire. The couples had met by chance about a year before on a hiking trail.

Several pre-dawn text messages later, the Sengstacks were in Eisenberg’s home.

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Sengstack, who 18 months after the firestorm is consumed with emotion when talking about that night, said the real challenge began the moment he started dealing with insurance adjusters from Alabama and Texas who, he said, lacked knowledge about certain protections and standards for home insurance policyowners in California.

“You have to go to battle for every single penny, and it’s just exhausting,” Sengstack said.

Eisenberg provided crucial guidance at every step, from challenging the initial amount of money the company offered the first day of the fire to more complex issues involving the worth of all their destroyed belongings and rebuilding costs, Sengstack said.

Sengstack said he is seeking no money from the state agency in the lawsuit, just a commitment to protecting policyholders during times of life-changing disasters.

“The lawsuit is just the right thing to do. I now know what it’s like to be a claimant after a disaster where I and thousands of others are suffering mightily on all different levels for all different reasons, but we’re all suffering,” Sengstack said.

“The last thing we need are ignorant, blowhard, dishonest adjusters telling us what to do and have them be wrong.”

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