



## **ROADMAP TO RECOVERY Q & A**

# **Your Wildfire Insurance Claim Questions Answered**

**November 18, 2020**

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# Sandra Watts



- **Project Coordinator and Instructor, Roadmap to Recovery**
- **30+ years experience in Insurance claims and claims management**
- **Appointed Member, CA DOI Curriculum Board**
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# About United Policyholders

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A voice and an information resource for consumers in all 50 states.



A 29+ year track-record and subject matter expertise in insurance and disaster recovery



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A volunteer corps with personal and/or professional expertise in disaster recovery and insurance.



# The Fine Print

- This workshop is intended to be general guidance only, not legal advice.
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# ALE QUESTIONS

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My adjuster says I can live in my home, even though there is visible ash and char inside?



Is loss of power and/or water offsite enough to trigger ALE coverage??



Can I claim reimbursement for costs associated with staying with a friend or relative?



I have not been paid anything for ALE yet, what should I do?

# BREAK DOWN ALE LANGUAGE

When a **Loss Insured** (FIRE!)



Causes the **residence premises** (your house)



To become uninhabitable (unfit to live in)



If this is met, you will be owed ALE under most policies.



(Some policies say that it has to be **YOUR** property damaged – others don't!)

# What makes a home uninhabitable?

- Different measures for different people.
- If you, or a family member, are vulnerable or sensitive to smoke, the "threshold" for acceptable levels of smoke is lower.
- Get a letter from your doctor, if necessary.
- Ask your adjuster what they think the threshold is, and how it is determined?
- Smoke particles are known to contain toxins
- Civil Code Section 1941.1 lists min standards for tenants

# CA Civil Code 1941.1

## **1941.1.**

(a) A dwelling shall be deemed untenable for purposes of Section 1941 if it substantially lacks any of the following affirmative standard characteristics or is a residential unit described in Section 17920.3 or 17920.10 of the Health and Safety Code:

- (1) Effective waterproofing and weather protection of roof and exterior walls, including unbroken windows and doors.
- (2) Plumbing or gas facilities that conformed to applicable law in effect at the time of installation, maintained in good working order.
- (3) A water supply approved under applicable law that is under the control of the tenant, capable of producing hot and cold running water, or a system that is under the control of the landlord, that produces hot and cold running water, furnished to appropriate fixtures, and connected to a sewage disposal system approved under applicable law.
- (4) Heating facilities that conformed with applicable law at the time of installation, maintained in good working order.
- (5) Electrical lighting, with wiring and electrical equipment that conformed with applicable law at the time of installation, maintained in good working order.
- (6) Building, grounds, and appurtenances at the time of the commencement of the lease or rental agreement, and all areas under control of the landlord, kept in every part clean, sanitary, and free from all accumulations of debris, filth, rubbish, garbage, rodents, and vermin.
- (7) An adequate number of appropriate receptacles for garbage and rubbish, in clean condition and good repair at the time of the commencement of the lease or rental agreement, with the landlord providing appropriate serviceable receptacles thereafter and being responsible for the clean condition and good repair of the receptacles under his or her control.
- (8) Floors, stairways, and railings maintained in good repair.



# Loss of Power OFF PREMISES?

## COVERAGE C - LOSS OF USE

1. **Additional Living Expense.** When a Loss Insured causes the residence premises to become uninhabitable, we will cover the necessary increase in cost you incur to maintain your standard of living for up to 24 months. Our payment is limited to incurred costs for the shortest of: (a) the time required to repair or replace the premises; (b) the time required for your household to settle elsewhere; or (c) 24 months. This coverage is not reduced by the expiration of this policy.

## STATE FARM SAMPLE

- More common language
- No limitation for off-site
- Remember – Loss Insured is FIRE!

# Farmer's Example Language

## 1. **Additional Living Expense.**

If covered accidental, direct, distinct and demonstrable, physical loss or damage to the **dwelling** makes that part of the **dwelling** where you reside uninhabitable by you, we will reimburse you for the actual, reasonable and necessary increase in living expense incurred by you. This coverage is for you and any **insured** members of your household to maintain the normal standard of living you had at the time of the loss event. Reimbursement for additional living expense will be for the shortest time reasonably needed to: (a) repair or replace the loss or damage to the **dwelling**, or (b) permanently relocate, but in no event for more than the time period shown in the Declarations. Additional living expense that raises your standard of living will not be reimbursed. Upon our request, you must provide receipts for expenses incurred. Additional living expense will be paid for only one household, regardless of the number of named insureds.

Farmer's Sells Several Policies, so review YOURS!

This policy states the damage must be to the dwelling itself, not off site.

# WHAT QUALIFIES FOR ALE?

- In most cases, expenses must be INCURRED
- Rent for temporary hotel / housing
- Increased food costs while no kitchen
- Money paid to friends and family for temporary shelter
- Renters insurance policy, if needed
- Extra miles – longer commute
- New Account “Set up” fees at temp. housing
- Photocopies and mailing expenses related to claim
- Moving costs
- Pet boarding costs
- Ask for their list – they are required to provide

# SMOKE QUESTIONS



What if my adjuster says I don't have any "damage?"



Do I have to wait for my adjuster to approve smoke remediation work before starting?



How do I get my carrier to reimburse me for smoke testing / CIH services?



Do I have to use the company that my insurance company told me to use?



What if my restoration company estimate is higher than my adjusters?

# My adjuster says “no damage”

- Did your adjuster actually inspect inside?
- Is there visible smoke, ash or char?
- Where? Take photos to document it!
- Is there smoke odor? Odor is caused by PARTICLES, and the first step of odor removal is to remove the SOURCE.
- What are your adjuster’s credentials to make this decision?
- Are they a CIH? IICRC Certified in Fire & Smoke? Otherwise qualified?
- Will they provide something that states that they guarantee that home is safe to re-occupy?



# Do I have to wait for my adjuster to approve smoke remediation work before starting?

- No, this is YOUR home!
- Most policies contain language (Loss Settlement portion) that say they will pay x, OR the “reasonable and necessary amount actually spent to repair or replace”
- Check your policy for this language, most include it
- They might push back on “reasonable” so be sure that you are prudent with your spending, as if you were paying yourself
- Of course, they may deny it, but usually only if they never have the opportunity to inspect the damage, first.

# Sample Language (also in 2051.5)

## 5. How We Settle Covered Loss.

Covered accidental direct physical loss or damage will be settled as follows.

- a. Coverage A (**Dwelling**) and Coverage B (**Separate Structures**). We will only settle covered loss or damage on the basis of use as a private residence.

(1) Settlement for covered loss or damage to a specific **component part(s)** of the **dwelling** or **separate structures**, except for **roof materials** and fences, will be settled at reasonable and necessary replacement cost, without deduction for depreciation, for the lesser of the costs to repair or to replace the specific damaged **component part(s)**, but for no more than the lesser of the following:

- i. the applicable **stated limit** or other limit of insurance in this policy that applies to the damaged or destroyed **dwelling** or **separate structure(s)**;
- ii. the reasonable repair or replacement cost of that specific **component part(s)** damaged for equivalent construction with materials of like

- kind and quality on the **residence premises**, determined as of the time of loss or damage;
- iii. the reasonable and necessary amount actually spent to repair or replace the specifically damaged **component part(s)** of the **dwelling** or **separate structure(s)**; or
- iv. the loss to the interest of the **insured** in the property.

When the cost to repair or replace damaged property is more than \$2,500, we will pay no more than the **actual cash value** of the damaged specific **component part(s)** of property until actual repair or replacement is completed. If the damage to the **dwelling** should be a total loss, then the **actual cash value** payment will be no more than the lesser of the **stated limit** or the fair market value of the **dwelling** until actual repair or replacement of the **dwelling** is completed.

If the **dwelling** or a **separate structure** is rebuilt or replaced at a different location, the costs described in subsection ii. above are limited to the costs which would have been incurred if the **dwelling** or **separate structure** had been rebuilt or replaced at its location on the **residence premises**.

# HOW do I get them to pay for CIH/Testing?

- If there is visible smoke residues, but they are refusing to pay for remediation
- They will need something to support their position – adjuster not qualified
- You can test yourself, and if shows damage, submit for reimbursement
- They are required to conduct a “reasonable investigation”



# INSURER'S DUTIES AT START OF CLAIM

## **CA FAIR CLAIMS SETTLEMENT PRACTICES 2695.5:**

(e) Upon receiving notice of claim, every insurer shall immediately, but in no event more than fifteen (15) calendar days later, do the following unless the notice of claim received is a notice of legal action:

(1) acknowledge receipt of such notice to the claimant unless payment is made within that period of time. If the acknowledgment is not in writing, a notation of acknowledgment shall be made in the insurer's claim file and dated. ....

(2) provide to the claimant necessary forms, instructions, and reasonable assistance, including but not limited to, specifying the information the claimant must provide for proof of claim;

(3) begin any necessary investigation of the claim.

# DO I HAVE to use their Remediation Company?

- **NO!! – 2695.9:**

(b) No insurer shall require that the insured have the property repaired by a specific individual or entity.

(c) No insurer shall suggest or recommend that the insured have the property repaired by a specific individual or entity unless:

(1) the referral is expressly requested by the claimant; or

(2) the claimant has been informed in writing of the right to select a repair individual or entity and, if the claimant accepts the suggestion or recommendation, the insurer shall cause the damaged property to be restored to no less than its condition prior to the loss and repaired in a manner which meets accepted trade standards for good and workmanlike construction at no additional cost to the claimant other than as stated in the policy or as otherwise allowed by these regulations.

# WHAT IF my estimate is higher??

## **2695.9:**

(d) If losses are settled on the basis of a written scope and/or estimate prepared **by or for the insurer**, the insurer shall supply the claimant with a copy of each document upon which the settlement is based. The estimate prepared by or for the insurer shall be in accordance with applicable policy provisions, of an amount which will restore the damaged property to no less than its condition prior to the loss and which will allow for repairs to be made in a manner which meets accepted trade standards for good and workmanlike construction. The insurer shall take reasonable steps to verify that the repair or rebuilding costs utilized by the insurer or its claims agents are accurate and representative of costs in the local market area. If the claimant subsequently contends, based upon a written estimate which he or she obtains, that necessary repairs will exceed the written estimate prepared by or for the insurer, the insurer shall:

- (1) **pay the difference between its written estimate and a higher estimate obtained by the claimant;** or,
- (2) if requested by the claimant, promptly provide the claimant with the name of at least one repair individual or entity that will make the repairs for the amount of the written estimate. The insurer shall cause the damaged property to be restored to no less than its condition prior to the loss and which will allow for repairs in a manner which meets accepted trade standards for good and workmanlike construction at no additional cost to the claimant other than as stated in the policy or as otherwise allowed by these regulations; or,
- (3) **reasonably adjust any written estimates prepared by the repair individual or entity of the insured's choice and provide a copy of the adjusted estimate to the claimant.**

# TOTAL LOSS QUESTIONS



Can I choose NOT to buy or rebuild, and just pay off my mortgage, and keep the land?



I don't know if I want to buy or rebuild?



If I decide to buy, can I use all of my coverages?



What are my first steps?



What if my coverage limits are not enough to rebuild my home?

Get to  
know CA  
Insurance  
Code  
2051.5!

- Almost every one of the questions I get on total losses involves some part of this newly-clarified (Sep. 2018) legislation:
  - Replacement Cost
  - Extended Replacement Coverage
  - Additional Living Expenses
  - Code Upgrade
  - Buy or rebuild?

## CA INSURANCE CODE - 2051.5

### Determining Coverage A - Dwelling

(a) (1) Under an open policy that requires payment of the replacement cost for a loss, the measure of indemnity is the amount that it would cost the insured to repair, rebuild, or **replace the thing lost or injured**, without a deduction for physical depreciation, or the policy limit, whichever is less.

What does  
this  
mean???

- The amount you are owed is based upon the cost to rebuild the home you LOST, plus code upgrades, up to the policy limit.
- In most cases, you will need an estimate to determine what it would have cost to rebuild your prior home, even if you do not intend to rebuild it.

# ACV until Replaced

## 2051.5

- (2) If the policy requires the insured to repair, rebuild, or replace the damaged property in order to collect the full replacement cost, the insurer shall pay the actual cash value of the damaged property, as defined in Section 2051, until the damaged property is repaired, rebuilt, or replaced. Once the property is repaired, rebuilt, or replaced, the insurer shall pay the difference between the actual cash value payment made and the full replacement cost reasonably paid to replace the damaged property, up to the limits stated in the policy..



# ACV with RC paid when repairs completed – Most common

## 5. How We Settle Covered Loss.

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  - (1) Settlement for covered loss or damage to a specific **component part(s)** of the **dwelling** or **separate structures**, except for **roof materials** and fences, will be settled at reasonable and necessary replacement cost, without deduction for depreciation, for the lesser of the costs to repair or to replace the specific damaged **component part(s)**, but for no more than the lesser of the following:
    - i. the applicable **stated limit** or other limit of insurance in this policy that applies to the damaged or destroyed **dwelling** or **separate structure(s)**;
    - ii. the reasonable repair or replacement cost of that specific **component part(s)** damaged for equivalent construction with materials of like

- kind and quality on the **residence premises**, determined as of the time of loss or damage;
- iii. the reasonable and necessary amount actually spent to repair or replace the specifically damaged **component part(s)** of the **dwelling** or **separate structure(s)**; or
- iv. the loss to the interest of the **insured** in the property.

When the cost to repair or replace damaged property is more than \$2,500, we will pay no more than the **actual cash value** of the damaged specific **component part(s)** of property until actual repair or replacement is completed. If the damage to the **dwelling** should be a total loss, then the **actual cash value** payment will be no more than the lesser of the **stated limit** or the fair market value of the **dwelling** until actual repair or replacement of the **dwelling** is completed.

If the **dwelling** or a **separate structure** is rebuilt or replaced at a different location, the costs described in subsection ii. above are limited to the costs which would have been incurred if the **dwelling** or **separate structure** had been rebuilt or replaced at its location on the **residence premises**.

# Buying vs. Rebuilding



The process is almost identical for all the different options (rebuild/buy/codes)



The most important thing: **KNOW HOW MUCH IT WOULD COST TO REBUILD THE HOUSE YOU LOST** up to the policy limits.



If buying you will also need a **CODE BID** for the house you lost, **NOT** the new one!



If you were paid the full policy limits you will most likely not need an estimate

# FIRST STEPS - Aim for an agreed upon scope of loss!



Make sure that you correct the insurance company estimate so you can compare like-for-like with your contractor's estimate



Make sure your contractor's estimate, if you get one, is for your OLD home, **not** the one you want.



In-person meeting with adjuster can be productive



Your contractor/subs should be able to stand behind his/her numbers



Know the areas where you differ, and why

# Combining Coverages in CA - NEW LAW!

- **10103.7.** In the event of a covered loss relating to a state of emergency, as defined in Section 8558 of the Government Code, an insured under a residential property insurance policy shall be permitted to *combine payments for claims for losses up to the policy limits for the primary dwelling and other structures, for any of the covered expenses reasonably necessary to rebuild or replace the damaged or destroyed dwelling, if the policy limits for coverage to rebuild or replace the primary dwelling are insufficient.* Any claims payments for losses pursuant to this subdivision for which replacement cost coverage is applicable shall be for the full replacement value of the loss *without requiring actual replacement of the other structures or contents.* Claims payments for other structures in excess of the amount applied towards the necessary cost to rebuild or replace the damaged or destroyed dwelling shall be paid according to the terms of the policy.
- *(Added by Stats. 2018, Ch. 618, Sec. 3. (SB 894) Effective January 1, 2019.)*

# MORTGAGE QUESTIONS



Why is my mortgage company listed on the payment?



What do I do with the check that names them?



Will the insurance company cancel my policy if I pay off the mortgage?



Why is my mortgage company listed on the payment? Because both your mortgage documents and policy require it to protect the lender's \$.



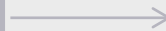
What do I do with the check that names them? You have to call your lender – each one has a different system – usually a LOSS DRAFT department



Will the insurance company cancel my policy if I pay off the mortgage? **NOPE!**

# PAYMENT QUESTIONS

Should I accept money that my insurance company is trying to pay me?



What if I don't know or agree with the amount?

# CONTENTS QUESTIONS



Should we take money now, for items that we can't / won't purchase until after our home is rebuilt?



If I replace an item with a “fancier” item, will they cover the cost? Or pay for only the basic model I lost?



Why haven't I received a 75% advance?



Do I HAVE to do a full inventory of my lost contents?



# COVERAGE QUESTIONS?



Refrigerators and  
refrigerated  
contents



Floors damaged  
by leaking fridges



“We don’t insure  
AIR”

# What's the deal with REFRIGERATOR CLAIMS???

- Personal property is usually on a “named-peril” basis, which means it is covered for specific causes of loss.
- “Power interruption” is usually NOT one of them.
- Some policies add limited coverage for food back in under Additional Coverages.
- However, CA uses the “most important” cause of loss to determine coverage- not all states do, so your adjuster might not know this
- In most cases, the “most important” cause of your refrigerator loss is FIRE – what set the loss in motion.
- Ask your adjuster **WHAT INVESTIGATION** they did to determine the cause of your fridge loss

# CA JURY INSTRUCTIONS 2306.Covered and Excluded Risks—Predominant Cause of Loss

You have heard evidence that the claimed loss was caused by a combination of covered and excluded risks under the insurance policy. When a loss is caused by a combination of covered and excluded risks under the policy, the loss is covered only if the most important or predominant cause is a covered risk.

[[Name of defendant] claims that [name of plaintiff]’s loss is not covered because the loss was caused by a risk excluded under the policy. To succeed, [name of defendant] must prove that the most important or predominant cause of the loss was [describe excluded peril or event], which is a risk excluded under the policy.]

[or]

[[Name of plaintiff] claims that the loss was caused by a risk covered under the policy. To succeed, [name of plaintiff] must prove that the most important or predominant cause of the loss was [describe covered peril or event], which is a risk covered under the policy.]

## COMMUNICATION QUESTIONS



My adjuster refuses to provide an email address



My adjuster is not returning my calls



My adjuster refuses to explain my coverages or the basis for denial



How long do they have to respond to emails?



When do they have to pay on estimates submitted?



I'm on my 3rd Adjuster! What do I do?

# Claim Handling Standards

## California Fair Claims Settlement Practices Act

- 15 days to respond to communications
  - Email, letter, phone call
- 40 days to pay or deny claim
- If unable to make decision must send letter
  - What they need to make a decision
  - How long they need to make the decision
  - Send letter every 30 days

# HELP! I'm on my 3<sup>rd</sup> Adjuster!

## CA INSURANCE CODE SECTION 14047.

(a) For a claim under a policy of residential property insurance arising as a result of a state of emergency, as defined in subdivision (b) of Section 8558 of the Government Code, if, within a six-month period, an insurer assigns a third or subsequent first-party real or personal property claims adjuster to be primarily responsible for a claim, the insurer, in a timely manner, shall provide the insured with a written status report, establish a primary point of contact for the insured, and provide the insured with one or more direct means of communication with the primary point of contact.

(b) The primary point of contact shall be available to respond to inquiries by the insured related to the residential property insurance claim. Other claims personnel, vendors, or professionals, including clerical staff members and call center staff members, may work on portions of the insured's claim. Once assigned, the primary point of contact shall remain assigned to the insured's claim until the insurer determines that the residential property claim is closed or litigation has been filed.

(c) The insurer shall ensure that the primary point of contact refers and transfers an insured to the appropriate supervisor with a span of control over the primary point of contact upon the request of the insured. This process shall be satisfied by a referral to a first-tier or second-tier manager with authority over claim handling.

(d) For purposes of this section:

(1) "Policy of residential property insurance" has the same meaning as defined in Section 10087.

(2) "Primary point of contact" means a first-party real or personal property claims adjuster or team employed as a member or members of the insurer's staff who are knowledgeable about the claim and its current status.

*(Added by Stats. 2019, Ch. 502, Sec. 8. (SB 240) Effective October 3, 2019.)*

# Best Practices



Get it in WRITING!



If not, put it in writing, back to them confirming



Keep it professional



Be concise and to the point



Bold or bullet point your requests



Use proper grammar and punctuation



Promptly respond to letters and reasonable requests

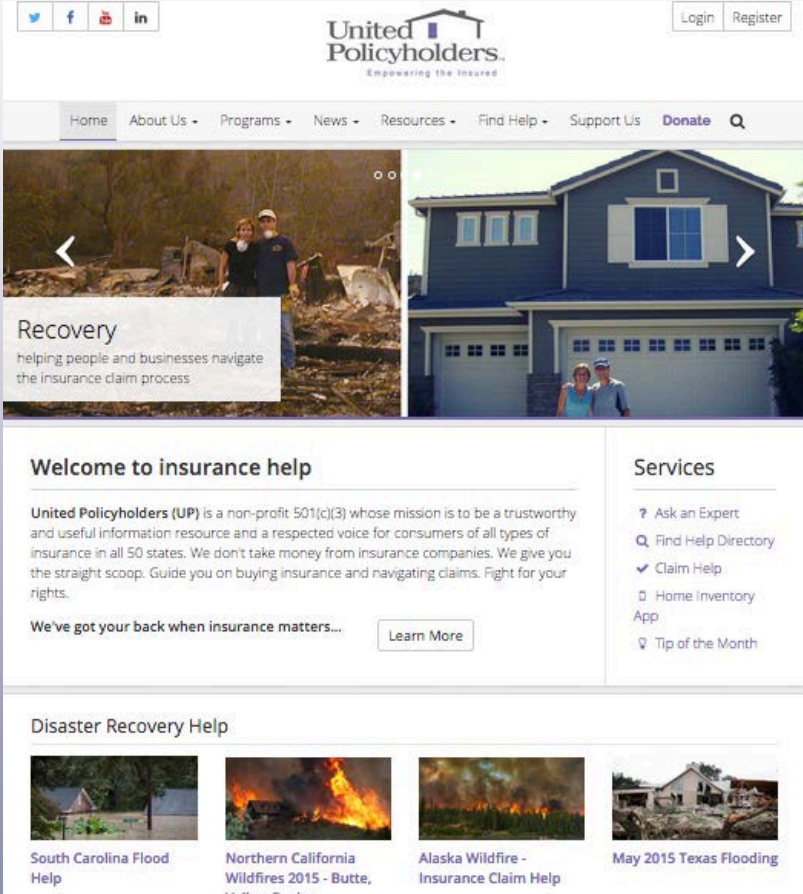


Avoid venting frustrations and emotions to your adjuster

# 24/7 help on the web: [www.uphelp.org](http://www.uphelp.org)

## ■ Insurance Claim Help

- Recovery Blogs:
- Claim Help Library
- Guides for overcoming obstacles
- Links to Government and Professional help
- Tips from past disaster survivors
- Sample Letters and Claim Forms



The screenshot shows the homepage of United Policyholders. At the top, there are social media icons for Twitter, Facebook, YouTube, and LinkedIn, along with 'Login' and 'Register' buttons. The main navigation bar includes 'Home', 'About Us', 'Programs', 'News', 'Resources', 'Find Help', 'Support Us', and 'Donate'. Below the navigation is a large banner image with a 'Recovery' section that reads 'helping people and businesses navigate the insurance claim process'. The main content area is divided into two columns: 'Welcome to insurance help' on the left and 'Services' on the right. The 'Welcome' section includes a paragraph about the organization's mission and a 'Learn More' button. The 'Services' section lists 'Ask an Expert', 'Find Help Directory', 'Claim Help', 'Home Inventory App', and 'Tip of the Month'. At the bottom, there is a 'Disaster Recovery Help' section with four featured disaster events: South Carolina Flood Help, Northern California Wildfires 2015 - Butte, Valley, Beckwith, Alaska Wildfire - Insurance Claim Help, and May 2015 Texas Flooding.





# CALIFORNIA DEPARTMENT OF INSURANCE



**Wildfire resources  
and insurance  
information**

**FOR FREE, PERSONAL ASSISTANCE WITH YOUR  
CLAIMS OR UNDERINSURANCE ISSUES**

**CALL US AT: 1 800 927 4357**

**OR GO ONLINE: [insurance.ca.gov](https://insurance.ca.gov)**

**THANK YOU  
FUNDERS AND PARTNERS**

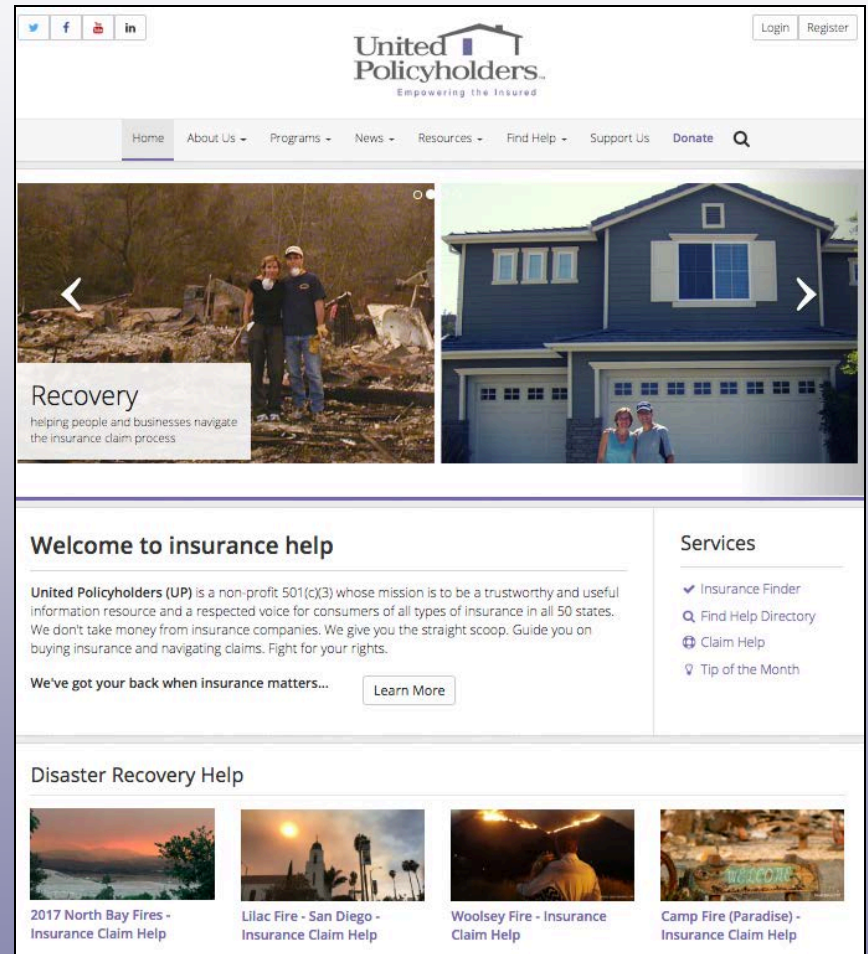
**NAPA VALLEY**  
COMMUNITY FOUNDATION

 **COMMUNITY FOUNDATION**  
SANTA CRUZ COUNTY

# Thank you!

[www.uphelp.org/signup](http://www.uphelp.org/signup)

- To be added to our mailing list for notices of future events and updated guidance



The screenshot shows the homepage of United Policyholders. At the top, there are social media icons for Twitter, Facebook, YouTube, and LinkedIn, along with 'Login' and 'Register' buttons. The main navigation menu includes 'Home', 'About Us', 'Programs', 'News', 'Resources', 'Find Help', 'Support Us', and 'Donate'. The header features the United Policyholders logo with the tagline 'Empowering the Insured'. Below the navigation is a large banner with two images: one showing a couple standing in front of a destroyed house with the text 'Recovery helping people and businesses navigate the insurance claim process', and another showing a couple in front of a new blue house. The main content area is divided into two columns. The left column is titled 'Welcome to insurance help' and contains a paragraph about the organization's mission, a quote 'We've got your back when insurance matters...', and a 'Learn More' button. The right column is titled 'Services' and lists 'Insurance Finder', 'Find Help Directory', 'Claim Help', and 'Tip of the Month'. Below this is a section for 'Disaster Recovery Help' with four featured articles: '2017 North Bay Fires - Insurance Claim Help', 'Lilac Fire - San Diego - Insurance Claim Help', 'Woolsey Fire - Insurance Claim Help', and 'Camp Fire (Paradise) - Insurance Claim Help'.

**UPCOMING WEBINARS:**  
[www.uphelp.org/2020wildfires](http://www.uphelp.org/2020wildfires)

**Navigating your Partial Loss/Smoke Loss Claim**  
Wednesday, October 7 @ 5:30 p.m.

**Navigating the “Dwelling” Portion of Your Claim**  
Thursday, October 8<sup>th</sup>

**Roadmap to Recovery Q&A – 2020 CA Wildfires**  
October 14<sup>th</sup> @ 5:30 p.m.

**Roadmap to Recovery for Renters**  
Thursday, October 15<sup>th</sup>