



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

# **Your Wildfire Insurance Claim Questions Answered**

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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**
- **IICRC Certified Fire & Smoke (FSRT) and Water Restoration Technician (WRT)**
- **CPIA - Certified Property Insurance Appraiser**
- **CPIU - Certified Property Insurance Umpire**



# About United Policyholders

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501(c)3 nonprofit organization.



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



Not for profit...not for sale.



Funded by donations and grants.



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.
- We don't endorse or warrant any of the sponsors listed at [www.uphelp.org](http://www.uphelp.org) or speakers at our workshops.

# Landslides?

Q: We are in a high risk area for post-fire debris flows and mudslides. Our insurance agent told us that there is a moratorium in California for new landslide insurance, and that earth movement is not covered by our policy. Would a mudslide be covered by our homeowner's policy since the fire could be cited as a "proximate cause"? We want to make sure we're covered... any information or advice would be very helpful. Thanks!

A. California recognizes the "proximate cause" doctrine (Cal Ins Code § 530). A "proximate cause" is the *predominant or most important* cause in a chain of events.

If it can be shown that a wildfire (a risk covered by your homeowners policy) was the "proximate cause" of the subsequent landslide, mudslide, mudflow, or debris flow – the loss caused by those events will be covered under your policy. This is a factual inquiry that observes timing and a provable nexus between the events.

# LANDSLIDE

The “proximate cause” doctrine is not new in California. However, following the tragic Montecito mudslide and debris flow losses in 2018, the California legislature found it important to clarify that if a loss results from a combination of perils, one being a landslide, mudslide, mudflow, or debris flow, coverage shall be provided under the same terms and conditions as they would for a wildfire if the wildfire is the efficient proximate cause of the loss (Cal Ins Code § 530.5).

- To view the California Department of Insurance Press Releases regarding mudslide coverage in Montecito (2018), visit:
- <http://www.insurance.ca.gov/0400-news/0100-press-releases/2018/release012-18.cfm> (Jones issues formal notice to insurers regarding mudslide coverage for homeowners)
- <https://www.insurance.ca.gov/0400-news/0100-press-releases/2018/release033-18.cfm> (Montecito mudslide insurance claims top \$421 million)

# SMOKE QUESTIONS



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



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

# 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**.

# 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..



# 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

# BUY VS. Rebuild LAW

- CA Insurance Code Section 2051.5.
- (c) In the event of a total loss of the insured structure, a policy issued or delivered in this state shall not contain a provision that limits or denies, on the basis that the insured has decided to rebuild at a new location or to purchase an already built home at a new location, payment of the building code upgrade cost or the replacement cost, including any extended replacement cost coverage, to the extent those costs are otherwise covered by the terms of the policy or any policy endorsement. However, the measure of indemnity shall not exceed the replacement cost, including the building code upgrade cost and any extended replacement cost coverage, if applicable, to repair, rebuild, or replace the insured structure at its original location.

# 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.)*

## 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



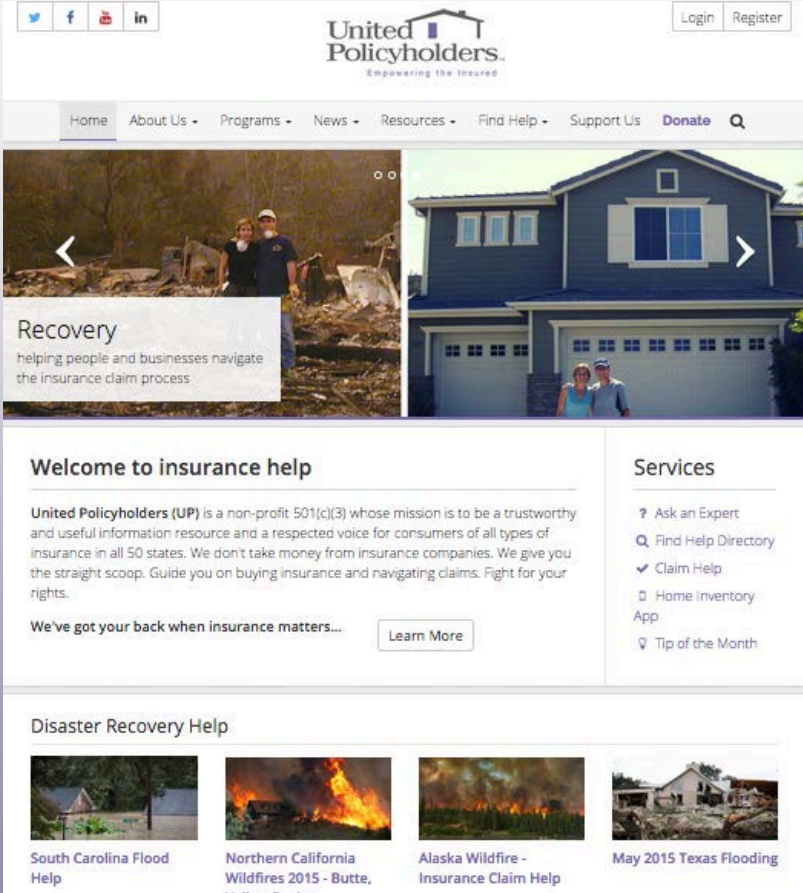
Avoid venting frustrations and emotions to your adjuster



# 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, followed by the United Policyholders logo and the tagline "Empowering the Insured". To the right of the logo are "Login" and "Register" buttons. Below the logo is a navigation menu with links for Home, About Us, Programs, News, Resources, Find Help, Support Us, and Donate. The main content area features a large banner with two images: one showing a man and a woman standing in front of a destroyed house, and another showing a man and a woman standing in front of a new, modern house. Below the banner is a "Recovery" section with the text "helping people and businesses navigate the insurance claim process". To the right of the banner is a "Services" section with a list of services: Ask an Expert, Find Help Directory, Claim Help, Home Inventory App, and Tip of the Month. Below the banner is a "Welcome to insurance help" section with a paragraph about United Policyholders (UP) and a "Learn More" button. At the bottom, there is a "Disaster Recovery Help" section with four featured disaster recovery help pages: South Carolina Flood Help, Northern California Wildfires 2015 - Butte, Valley, Beckley, 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)**

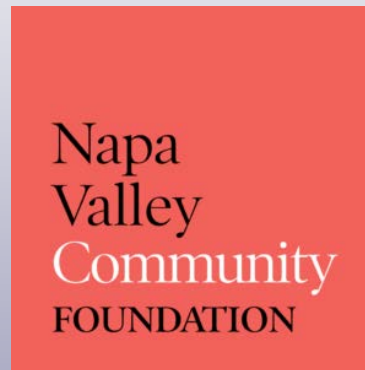
# Thank you!

[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 titled 'Disaster Recovery Help' with four sub-sections: '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', each with a representative image.

# THANK YOU FUNDERS



# Upcoming Roadmap to Recovery™ Events

## Survivor to Survivor

### Roadmap to Recovery Workshop

Tuesday, December 15, 2020, 7:00 PM PT

Register for any workshop at: [www.uphelp.org/R2R](http://www.uphelp.org/R2R)



# 2020 Wildfire Survivor Videos

- Insurance Recovery Orientation  
[www.uphelp.org/2020\\_orientation](http://www.uphelp.org/2020_orientation)
- How to Read and Understand Your Policy  
[www.uphelp.org/2020\\_policy](http://www.uphelp.org/2020_policy)
- Partial Loss and Smoke Damage  
[www.uphelp.org/2020\\_partial\\_smoke](http://www.uphelp.org/2020_partial_smoke)
- Navigating the Dwelling Portion of Your Claim  
[www.uphelp.org/2020\\_dwelling](http://www.uphelp.org/2020_dwelling)
- Smoke, Ash & Soot: A Partial Damage/Insurance Claims Intensive for 2020 wildfire survivors  
[http://www.uphelp.org/2020\\_smoke2](http://www.uphelp.org/2020_smoke2)
- Insurance Claims Rules and Your Legal Rights for 2020 wildfire survivors  
[http://www.uphelp.org/2020\\_legalrights](http://www.uphelp.org/2020_legalrights)
- Navigating the Contents Portion of Your Claim  
[http://www.uphelp.org/2020\\_contents](http://www.uphelp.org/2020_contents)