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CENTRAL TEXAS FIRES

As we all know, the Labor Day weekend was the start of an unprecedented series of fires throughout Central Texas. Fires in Bastrop, Spicewood, Steiner Ranch, and Union Chapel were all part of the biggest natural disaster that this area has ever seen.

And now, as I write this, a new fire rages on in the Bastrop area.

While we were fortunate that so few lives were lost, there is no doubt that many people's lives were destroyed.

Because of a church position I hold, I spent some time those first couple of weeks listening to stories about the damage, trying to spread the word about the needs of the various communities, and trying to help coordinate responses of several churches and their members.

Having been a part of that, having seen some of the damage first hand, and having helped many people try to navigate through similar problems with insurance companies, I know that these affected families have a long struggle ahead of them.

That's why I've decided to do something a little different for this newsletter. Instead of featuring our regular articles, I'm using this newsletter

to try and provide a little information that may help guide those affected by the fires through the claims and rebuilding process. The last thing I want to see is victims of the fires become victimized for a second time.

But the fires also have lessons for all of us. Far too often, people don't understand the issues or preparation necessary to protect themselves until after a disaster occurs. All of us can take these fires as a warning about what we need to do to prepare. To try and make sure others are protected in future disasters, I'll also include some lessons that we can all learn from.

I'd also ask that we all consider keeping the victims of the fires in our thoughts and prayers. I have seen an amazing outpouring of support in the days following the fires. But it's important to remember that this isn't a disaster that will be overcome in days or months or even years. I've spoken to disaster relief experts that believe that it will take decades for Central Texas to recover from these losses.

Brooks Schuelke

Basics of Insurance Claims: Types of Claims

Most homeowners' insurance claims will have three primary parts — a real property claim, a contents/personal property claim, and an alternative living expenses claim.

The real property claim is for the damage to your actual structure — the dwelling or home. Generally, when you're making a claim there are fights with the insurance company about the extent of repairs necessary to fix your home and the cost of those repairs. Fortunately for the victims of these fires, most fire victims are able to avoid this fight. Section 862.053 of the Texas Insurance Code provides that when there is a total loss by fire, then the full amount of the policy limits are due. In most cases with extensive damage, the home is a total loss so the insurance company is required to pay the full amount of the policy.

The personal property/contents claim is the claim for your

furnishings and possessions. That includes furniture, clothing, household items, etc. Sadly, most people are underinsured when it comes to contents — they just don't really have a good estimate about the value of the items in their houses. As a result, when fires completely destroy a home, most homeowners will be owed the full amount of coverage provided by their policy. The biggest part of this problem is proving those losses — what did you own, what did it cost, what is it worth, etc. People should plan ahead for this (I'm discussing this in another article). If you haven't planned ahead, you may face an uphill battle trying to get your insurance company to treat you fairly.

The alternative living expenses coverage will help pay for your living expenses — rent, increased utility bills, etc. — that you incur while you are out of your home.

Tips For Handling Your Insurance Claims

1. Don't Sign Anything You Don't Understand

By signing a document you don't understand, you could accidentally give up some of your rights. Don't just sign something because the insurance adjuster asks you to sign it. Make sure you fully understand it.

2. Document! Document! Document!

Keep detailed notes regarding all of your communications with your insurance company and its representatives. Keep notes of all phone calls, and keep copies of all e-mails, letters or other documents you exchange with your adjuster or other representatives. This information will be useful should some problem arise with your claim.

Also, keep track of your living expenses for your "alternative living expense" coverage. While you will not forget to ask for the big expenses (rent, etc.), many people fail to keep detailed receipts for the smaller purchases. Those expenses add up, and failure to keep those receipts may end up costing you hundreds of dollars.

3. Don't Let The Insurance Company Drag Its Feet

The natural tendency of an insurance company is to drag its feet. Texas has a "prompt pay" statute designed to

keep the claim processing timely. Make sure the insurance company follows the rules and doesn't string you along.

4. On The Other Hand, Don't Rush It

Some insurance companies are quick to close fire claims and try to settle before the homeowner fully understands the full scope of the losses (some call this the "swoop and settle"). Don't settle or let the insurance company close your claim until you are sure that you have fully documented all of your losses. The last thing you want to do is settle a contents claim and then realize that you left off hundreds or thousands of dollars of items because you settled too quickly.

5. Read The Contract

Your contract governs the relationship between you and your insurance company. A few years ago, all insurance policies were almost identical, but now the Texas Department of Insurance allows companies to write their own policies. This means that policies offer different provisions and different coverages. If your insurance company is balking at paying anything, read your contract and make them show you the provisions supporting their position.

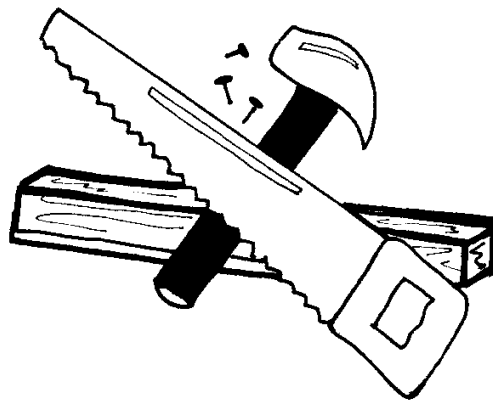
Avoiding Bad Builders

I've represented a number of people in lawsuits against their builders. Several years ago, one of my clients and I half-joked that we were going to write a book about avoiding bad contractors.

We never got around to writing the book, but I do want to share some of the tips. Because while tragedies oftentimes bring out the best in people looking to help others, they also bring out the worst in people — those that want to take advantage of the situation. Here are some of my tips to help you avoid being victimized a second time.

1. RESEARCH YOUR POTENTIAL BUILDER. Ask for recommendations from those you know and trust. Once you receive those recommendations, research the options. Do the traditional research by asking for references & checking up on those references. But also go that extra step and look online to see what reviews or complaints your builder might have out there. Given the large investment you're about to make, consider paying a little for services such as Angie's List.

2. MAKE SURE YOU UNDERSTAND THE CONTRACT. Contracts are confusing, and the construction contract will likely be for more than \$100,000.00. That's a lot of money. Make sure you understand whether you're entering into a flat fee contract or a cost-plus contract. Make sure you understand the scope of the work that is included in the contract (as opposed to what might be upgrades or additional charges). Make



sure you understand the warranty that the builder may be offering. A little work up-front can prevent huge problems later.

3. DON'T PAY THE CONTRACTOR TOO MUCH UP-FRONT. We sometimes see cases where the profit in the job is in the earlier part of the construction so the builder, satisfied with those early profits, walks off the job. You need to make sure that the negotiated payments provide an incentive for the contractor to stay on the job.

4. MAKE SURE THE CONTRACTOR IS PAYING THE SUBCONTRACTORS. Under Texas law, if the contractor doesn't pay the subcontractors, the subcontractors can put a lien on your house. You can minimize the risk of that happening by requiring the contractor to provide you lien releases from the subcontractors with each draw request. Lien releases are formal documents from the subcontractors saying that they have been paid through various points of the project.

5. CONSIDER HIRING AN INSPECTOR TO COME INSPECT THE CONSTRUCTION PROCESS. This is an extra cost, but it's worth it to make sure the house is being built properly. At a minimum, have someone check the framing, the installation of the plumbing and electrical, and flashing of the windows and other penetrations. Those types of defects can cause a lot of damage and be expensive to repair later on down the road.

These aren't all the tips, certainly, but if you follow these instructions, I think it's a little less likely that you'll be taken advantage of or be the victim of shoddy workmanship.

Lesson # 1: Make Sure You Inventory Your Contents

One of the difficulty fire victims will face is proving the property that they own and the value of that property. After everything is destroyed, it's difficult to accurately remember everything you had. You'll never remember all of your clothes, jewelry, tools in the workshop, etc. As a result, it's important to inventory your items before disaster strikes. That may be as elaborate as a detailed spreadsheet, but it can be as simple as running through your house for five minutes with a video camera to document what you own. Whatever method you choose, don't forget to store the inventory off-site.

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This newsletter is informational and not legal advice. If you need legal advice, feel free to call us to set up a consultation.

Lesson #2: Make Sure You Have Enough Insurance

Shortly after the fires started, the Austin American Statesman wrote about Carmen and Javier Chaparro. The Chaparros seem like great people. Javier is a professional musician, and Carmen teaches special-needs kids. But sadly, after the fire, the Chaparros discovered that they didn't have enough insurance to fully cover the losses of Javier's musical instruments (including a \$50,000 violin) and his recording equipment.

While that's a hard lesson to learn, the Chaparros are in good company. I estimate that at least 75% of my clients with homeowners' claims don't have enough insurance to fully cover their losses in the event of a tragedy.

For dwelling coverage, the fact is that it's just expensive to build in Central Texas, and most people don't have an idea of what it would cost to rebuild their home. Insurance companies have formulas they use to estimate those costs, but often those estimates are wildly inaccurate. It's worth paying a small amount to get an opinion from a builder or someone else to make sure that your insurance will cover the cost to rebuild your home.

The same goes for contents. Most people are underinsured

on their contents coverage. People own a lot of "stuff" these days, and replacing all that stuff is expensive. When you're renewing your insurance, take the time to really look at what you own, and be honest in deciding what it might cost to replace it.

Also, it's important to understand your policy. For years, the Texas Department of Insurance required homeowner's insurance companies to write standard policies (almost all policies were form HO-B policies). Because the policies were standard, a homeowner could shop around from company to company and know that they were comparing apples to apples. But, in a huge disservice to homeowners, the insurance department now allows companies to write their own policies. Now, when the average homeowner is calling around to different agents to get quotes, it's almost impossible to know whether you're getting quotes on the same types of policies. That's why it's important to sit down with your agent and tell them about your circumstances, and have them explain the policy to you. I know it's boring (and I do it for a living), but it's the only way to really make sure you're protected.