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FIRE!! ARE YOU PREPARED? BY ORA CITRON

On October 8, 2017, a series of fires started burning across our state, destroying over 245,000 acres in Napa, Lake, Sonoma, Mendocino, Butte and Solano Counties. These fires were the costliest group of wildfires in the history of California and the most destructive, causing at least \$9.4 billion dollars in insured damages. So we must ask ourselves, can this ever happen to me? Unfortunately, it can happen to any of us.

This article will delve into some very important information – the explanation of homeowner’s insurance and why you should review your policy. Typically, since our mortgage company requires us to have homeowner’s insurance, we find the least costly solution and hide the documents in a file drawer expecting never to need them.

But, what if the unthinkable happens? In 2009, a neighbor called me at work about 5 p.m. and excitedly said “Come home! Your house is on fire.” It had happened to me.

When I arrived home, the fire was out. My 92-year-old father had managed miraculously to escape unharmed. One of our dogs was at the emergency vet unable to be saved. The home was a smoldering mess, almost destroyed completely. We had the clothes on our backs, nowhere to sleep, and the graciousness of our neighbors.

That was the beginning of a three-year process to settle our claim with the insurer and rebuild our home. I suddenly had two more full-time jobs – dealing with the insurer and working with the architect and contractor, in addition to running my own business. My life began to revolve around those pieces of paper defining the contractual relationship between the insurer and me – the homeowner’s policy.

Most of us have three expectations when we purchase a homeowner’s policy:

1. You’ll never need the insurance.
2. The money specified in the policy is yours.
3. The insurer will work with you to settle any claim.

The reality is:

1. Fires happen frequently and are becoming more prevalent as we extend our residential footprint into former wilderness areas.
2. The money in the contract is not yours. You have to work hard for the right to get it.
3. The insurance company is not your friend or ally. Your adjuster’s interest is to protect the insurer – not you the policyholder.

Many insurers, agents, and homeowners are too casual about the insurance process. The agent is seeking a sale.

(CONT.)



FIRE!! ARE YOU PREPARED? (CONT.)



On the other hand, the client probably misunderstands the industry jargon, may just want to get coverage in place quickly at the lowest price, and doesn't know the questions to ask the agent. The sales process results in a high potential for pain if the policy is ever needed.

The claims process is governed first by the specifics of the policy. It's a contract. Definitions matter. Contract definitions are specific to the industry, through case law and practice. Be sure you know what terms mean and how they affect coverage.

California policies have four areas covering property losses: the dwelling, other structures (such as a deck), personal property, and loss of use. The dwelling and other structures need to be insured for the cost of construction – not the market value of the property. Personal property is often based on a percentage of the dwelling coverage. Loss of use covers the extra expenses incurred while you are not in your home.

Dwelling replacement cost is often misunderstood and underestimated. You need to know the replacement standard being used to replace the home. Will it be "Like Kind and Quality" or "replication," usually referred to as "Full Replacement"?

A new home built in a housing tract is likely of simple construction methods. It has lots of clean lines, standard-sized cabinets, and windows. But suppose you have a San Francisco Victorian, with custom windows, lots of detailing in the exterior and interior design, and different roof elevations. The new tract home might cost \$300 per square foot, while the Victorian may run \$600 per square foot. If you want the Victorian rebuilt as it was, it will be a much higher cost to replace it due to labor and materials.

What about coverage for codes and ordinances? Your policy provides limits to bring your structure up to current standards. For example, to replace all the windows may cost \$8,000. But if the City codes required triple-paned, non-vinyl replacements, the cost would jump to \$40,000. The difference in the cost might not be covered fully by the policy.

Finally, market value and replacement cost are not related. Know your options – replacement cost or actual cash value (a lesser standard). You pay extra for full replacement cost coverage. Before purchasing a policy you must interview the agent, testing how the policy will work in specific instances. Does the policy cover your Wolf range or would that be replaced with a GE range? Obtain and retain details about artwork, inventory, warranties. If you have valuable collections, jewelry or artwork, have it appraised and carried on a separate schedule. Be sure to have the policy re-evaluated every policy renewal.

There's more to know. Only a portion of the considerations has been discussed. Get the 10 questions to ask your agent at ora@oracitron.com. I'm happy to send them to you.

SPECIAL ROLES IN SPECIAL NEEDS TRUSTS

Special Needs Trusts (SNTs) are different from other trusts that we use in estate planning in many ways. One of those ways has to do with the number and variety of the participants, both family members and professionals, whose assistance is needed. The roles of some of these participants must be clearly defined in the SNT document. Other roles will be filled as needed (and permitted by the SNT document) by the trustee. In this article we will discuss some of the roles that are not commonly found in other estate planning trusts but that are often critical to the success of a SNT.

Because SNTs are designed to last a long time, for the beneficiary's whole life, among the problems that can arise is laws that affect the success of the trust can and do change. If the law changes in such a way that the SNT as written no longer preserves the beneficiary's eligibility for a needed government benefit, that is a huge problem. What can be done in the planning of the SNT to solve this problem before it arises?

SPECIAL ROLES IN SPECIAL NEEDS TRUSTS (CONT.)



Another role that is often built into a SNT is a Trust Advisory Committee. Like a Trust Protector, this is a role that is not defined by California Law but rather by the SNT document itself. The Trust Advisory Committee can consist of any number of members, who can be friends, family members, professionals or a combination.

The Trust Advisory Committee works with the trustee in making important decisions that affect the SNT beneficiary. These committee members are often people who know the beneficiary well and are familiar with the beneficiary's needs, likes and dislikes, in a way that the trustee, who may have only recently met the beneficiary, is not.



The most common solution is to include provisions for the role of Trust Protector. The Trust Protector's job is not defined in any California statute or case law. The job of the Trust Protector is whatever the trust document says it is. A job that is commonly assigned to the Trust Protector is modifying the trust when that becomes necessary because laws or circumstances have changed. The SNT can name a person who will serve as Trust Protector when needed or it can specify a person who will appoint a Trust Protector when needed.

The Trust Protector can be a trusted relative or a family friend. The responsibility of the Trust Protector can be limited to acting only when called upon to act rather than having to be constantly monitoring the trustee's performance or changes in the laws. The main benefit of including Trust Protector provisions in a SNT is flexibility.

Careful planning and selection of trustees, Trust Protectors and Trust Advisory Committee members can greatly enhance the likelihood of a SNT accomplishing the grantor's goals over the entire life of the beneficiary.

MATTRESS FIRM DONATION DRIVE PAST AND PRESENT



As you can see by the photo, we were very successful in collecting many toys, books, games, etc. for the MATTRESS FIRM Foster Kids program. We're very grateful for the donations from our wonderful clients.

Our next Mattress Firm donation drive has begun. This time of year we are collecting pajamas of any size, for any age. Kids grow up, but their clothes don't follow suit. By providing them with new pajamas, possibly we can help them sleep a little better at night. If you'd like to help, please bring your donation to our office by February 9th, and we will take them to Mattress Firm. Together, we can help local foster kids sleep a little easier at night.



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A PERSONAL NOTE FROM KIRSTEN

Dear Clients and Other Friends,

We spent a lot of time last year working on everything associated with changing the name of the firm. It was a much bigger project than we realized when we started out, but we're very happy and excited about it all, especially our new website, which has lots of helpful resources and really shows off our whole team.

Please take a look at AbsoluteTrustCounsel.com when you get a chance and let us know what you think.

Best wishes,

Kirsten Howe, Absolute Trust Counsel

THANK YOU FOR YOUR REFERRALS!

We have the BEST clients in Contra Costa County. Our firm has been built on recommendations and we'd like to thank you all for your support.

