

# THE VOSS ★ LAW FIRM

## Contents Claim Tips For Recovering The Costs of Repairing and Replacing Damaged/Destroyed Household Items

**Goal:** Collect the full amount your insurer owes you by listing and pricing everything you lost and submitting receipts as you replace items or by negotiating for policy limits.

**Action:** Use lists, photos, family and friends to help you remember and write down a complete inventory of all damaged and destroyed items.

Use stores and the internet to set a value for every lost item what it will cost to replace it  
Consider negotiating a lump sum settlement at or just below your limits without having to reconstruct a complete inventory list

The tips you'll read here are based on our organization's fourteen years of experience working with property owners who've lost everything and recovered. It doesn't matter where you live... Louisiana, Mississippi, Florida, California or Texas — the insurance claim process is the same.

**When it comes to collecting on your insurance policy to replace the contents of your home, it's all about documentation, organization and negotiation.**

When you deal with an insurance company on a claim where large dollars are at stake — it's business. You're not dealing with your "good neighbor" — you're dealing with a company that's in the business of being profitable. Remember: your insurance adjuster may be friendly but he/she is not your friend.

### **1. REPORT YOUR CLAIM PROMPTLY AND READ YOUR POLICY**

**Get and read a complete and current copy of your policy as soon as possible.** The page that states your name and address, policy number, dollar amounts of coverages and "endorsement" codes is called your "**declarations page**", (called a "dec" page). The policy will be hard to read and understand, but knowing what you're covered for is a critical first step in the claim process. Only you can protect your rights.

If your agent or insurance company are dragging their feet, call the consumer services department at your state insurance regulator's office and tell them you need immediate help. See our Basic Tips for contact information.

**Start at your “dec” page and check the dollar amounts/limits for your Contents/Personal Property.**

In addition to the dollar amounts on the “dec” page, there may be limits explained in other parts of the policy for specific items, such as valuable papers, art work, computers, etc.

You’ll need to do some math and piecing together to figure out what your policy limits actually are. Basic contents limits are generally set by the insurance company as a percentage of your dwelling coverage limits.

70% is standard.

Check your limits for “scheduled” personal property items, (artwork, jewelry, valuables). Make sure the policy covers what you thought you bought and what the agent/insurer told you it would cover. Many homeowners who experience a total loss are underinsured, meaning they don’t have sufficient limits to cover the cost of replacing what they had. If you find you are underinsured, get educated on your options.

## **2. GET A THREE RING BINDER AND GET ORGANIZED**

**Set up a section for your Dwelling loss, a section for your Contents loss/ inventory, and a section for your Loss of Use/Additional Living Expenses. Maintain a CLAIM DIARY.**

Take and keep detailed notes of all conversations with insurance company representatives (record their names, phone numbers, job titles and supervisor’s names). Confirm agreements, disputes and deadlines in writing via letter, fax or email. Print out and keep copies of emails. It may seem tedious to do this but keeping track of communications with your insurance company is really critical as you will probably have to deal with many different claim handlers.

Keep all receipts for temporary housing and items you replace and submit them to your insurer for reimbursement.

## **3. DON’T GET RUSHED INTO A QUICK INSURANCE SETTLEMENT**

Recognize that your claim may take longer to settle fairly than you’d anticipated. Lots of new terms and information will be thrown at you. It’s important to pace yourself, keep learning and get help when you need it. Don’t let insurance company adjusters rush you into a quick settlement.

The check they are offering may seem like a lot of money but could be far below what you are entitled to recover. It takes time to calculate what the insurance company owes you after a large loss. An adjuster who tries to rush you into a settlement may be trying to earn brownie points with the boss by underpaying and quickly closing your claim. He or she may also have figured out that you are underinsured, (your policy limits are too low to fully cover your losses). He or she may be hoping to avoid hassles by getting you to accept a fast check and sign a waiver that releases the insurer from any further obligation to pay your claim.

Read all checks and drafts on both sides before depositing or cashing them. Don't accept any checks with words like "full" or "final" "settlement" printed on them.

**Do not sign any "release" or "waiver" forms without getting advice from an experienced attorney. Your policy does not require you to sign away any legal rights in order to get paid fairly for a covered loss.**

#### **4. NEVER INTENTIONALLY CLAIM ITEMS YOU DID NOT HAVE**

People often believe that they need to "pad" their claim in order to get a fair settlement. They feel their adjuster will lowball pricing so they "go high" by inflating the value, quality or quantity of damaged or destroyed items to counter the lowballing. Innocent mistakes are very common on claim related inventories and forms and do not amount to insurance fraud. Insurance fraud (intentional misrepresentation) is a felony. Claiming items you did not have can jeopardize your entire claim and subject you to severe legal penalties. If your insurance adjuster or company believes you are substantially "padding" or inflating your claim the path to a fair and prompt settlement will be fraught with delays and obstacles.

#### **5. BE POLITE BUT ASSERTIVE TO ENSURE THAT YOU RECOVER A FAIR INSURANCE SETTLEMENT**

Your insurance company cashed your premium payment checks in return for promising you three things:

Peace of mind, Loss Reimbursement and Prompt Claim Service. Your contract with your insurer entitles you to all three of these things. Your rights under the contract are protected under the laws of your state.

**Give your insurance company the chance to fulfill its promises and do right by you, but don't be a pushover. Approach insurance company personnel with a positive and polite attitude, but be assertive.**

Start with a positive attitude toward the adjusters assigned to your claim but always find out their supervisors' name and contact info in case you need to go over their head.

Adjusters rotate after disasters so you'll probably get assigned a string of people with varying levels of training and expertise. This can be very frustrating, and the best way to stay on track is to keep good notes in your claim diary of what's been agreed to and what's still being worked out.

#### **6. NETWORK, NETWORK, NETWORK.**

Seek out others who've navigated a major insurance claim settlement in the past or are working on one currently. Learn from them. Share information with them. Find out what they're being told by insurance adjusters and claim professionals. Experience has clearly shown that united, educated

policyholders get faster, fairer settlements. Networking and communicating with others who are recovering and insured with the same company as you are is extremely helpful. It's a waste of time and energy to "reinvent the wheel" when it comes to disaster recovery.

## **7. LEARN ABOUT THREE TERMS THAT AFFECT THE AMOUNT OF YOUR CONTENTS CLAIM RECOVERY:**

- A) DEPRECIATION**
- B) ACTUAL CASH VALUE ("ACV")**
- C) REPLACEMENT COST ("RC")**

**A) "Depreciation" is the loss in value from all causes, including age, wear and tear.**

The "normal" contents claim process is: the claimant (with help from an adjuster) prepares a detailed list of every single damaged or destroyed item noting approximate age, value, and replacement cost. The adjuster/insurer depreciates certain items to account for their age, and cuts a check for what's called "ACTUAL CASH VALUE" ("ACV") of the entire inventory. Once you replace items your insurer generally owes you the balance between the ACV and what it actually cost you to replace or repair, (subject always to your individual policy's wording and limits).

**B) ACV is the "old" price of an item as it was pre-loss, sometimes explained as the price a willing buyer would have paid you immediately before the event that caused your loss.**

**Some policies limit payouts to "ACV" and that's all they pay.**

If you've got an ACV policy, you'll probably need to argue for less depreciation to be taken on major items, (see tip # 8 below), but once the check is cut, that's all you'll get, regardless of what it costs to actually replace what you had.

**Most policies these days are "REPLACEMENT COST", ("RC") policies because they're supposed to cover the cost of replacing what you've lost.**

To collect the full amount you're entitled to under an RC policy, you have to actually replace the items and send the receipts to the insurer with a demand for the balance they owe you. Insurers don't volunteer to pay — you insist.

**C) RC is the "new" price of what it would cost to actually repair or replace a damaged or destroyed item.**

## **8. DON'T ACCEPT EXCESSIVE DEPRECIATION OF YOUR PROPERTY BY THE INSURANCE COMPANY**

**Depreciation amounts are subjective and very negotiable.** There is no uniform or legally binding schedule or set standard for how much insurers can depreciate the value of your personal property. Insurance adjusters use their own subjective views plus guidelines on depreciation provided by their employer. It is hard to pin down an adjuster on how they arrived at the values they put on

your damaged or destroyed items. But these values impact your pocketbook so they are important to challenge if they are unfairly low. The lower the value an adjuster puts on your property — the less you will be reimbursed by your insurer.

Ask your insurer to provide you with a copy of the depreciation schedule they use.

**Be prepared to fight to get the full amounts you're entitled to, particularly on major items, and don't forget to submit receipts and collect your full replacement cost value after you replace items.**

Although this is no uniform or legally binding depreciation schedule in common use across the United States, there are resources you can consult. Claim Pages.com offers a list of standard depreciation amounts that you can view or print out free of charge from their website:

<http://www.claimspages.com/documents/docs/2001D.pdf>

**Negotiate ACV deductions on a case-by-case basis to reflect how worn the items really were.**

The furniture in your guest room should be depreciated less than the furniture in your master bedroom because it was used less and was in better shape. — The Replacement Cost and the Actual Cash Value of some items is the same.

**Many items should not be subject to depreciation.** Examples are: antiques, fine art and jewelry, computer media, (CD's etc.), software, framing, masonry, concrete, insulation, light fixtures. — Some items depreciate faster than others. Examples: electronics, soft furniture, clothes and shoes depreciate faster than hard furniture, washer dryers, etc.

You're unlikely to replace everything you lost and it's a hassle to have to keep providing receipts over time so try to maximize your ACV payments by arguing for lower depreciation on big ticket items and identifying the true replacement cost of items at standard, not discount retailers.

## **9. DISASTER-SPECIFIC TAX CONSIDERATIONS ARE AN IMPORTANT PART OF YOUR INSURANCE CLAIM.**

The California Society of Certified Public Accountants, the Internal Revenue Service and the American Bar Association offer free information on disaster related tax considerations. CPAs and Enrolled Agents with experience advising disaster survivors are an important source of paid advice.

<http://www.irs.gov/publications/p547/index.html>

<http://www.calcpa.org/home.htm>

<http://www.abanet.org/tax/taxtips4u/disaster.html>

## **10. EVERY DISASTER AND LOSS HAS UNIQUE CIRCUMSTANCES — FIND THE PATH THAT WORKS BEST FOR YOUR RECOVERY**

**“Normal” rules may not apply to claims from large-scale natural disasters. Think outside the box.**

Before you even start the painful process of sitting down to list every single item that was in the home that you may have lived in your entire adult life, remember this word: **Negotiation**. If everything you had was destroyed, it is logical that you are entitled to be paid your full contents policy limits. This is true especially where you followed your agent or insurer’s recommendations on coverage limits.

To prevent fraud, insurers generally require that every claimant — even those who’ve lost everything — fully document their losses to get paid in full. The key word here is **“generally”** — there are always exceptions, and here’s an important tip:

Some insurance companies will waive the inventory requirement if you give them good reasons to do so and you **negotiate**. **If you have good reasons, there’s no harm in asking your adjuster and insurance company to waive the inventory requirement and pay your limits. Just know it’s a long shot. Insurers only relax the rules when they feel they really have to. Disaster survivors have successfully argued:**

*“I followed your recommendations on how much contents coverage to buy but I’ve close to my limit and I’m only half way through completing my inventory. I shouldn’t have to keep going — it’s upsetting and a waste.*

*Please cut me a check for my full limits without further documentation.”*

*“The claim process has been a second nightmare so far. To avoid the further trauma of sitting down to describe all the cherished things I lost. I’ll accept 90% of my policy limits for contents — less than you owe me — to save time for me and your company. I’ve lost everything. Please make this practical business decision.”*

Make the request in writing to your insurer, and even if you’re adjuster says “no” right off the bat, go over his or her head before you give up.

## **11. TAKE ADVANTAGE OF TIME-SAVING TECHNOLOGY WHEN DOCUMENTING ALL DAMAGED OR DESTROYED ITEMS**

Preparing a contents inventory to prove your claim can be extremely time-consuming. Take advantage of what’s worked for other disaster survivors in recent years:

**Stores that have gift registry scanners.**

You can walk around the store with the scanner and use it to compile a list that describes and prices the items that were destroyed. The print out can be supplemented with additional items and submitted directly to your adjuster/insurer.

**Internet shopping/pricing info.** With the widespread use of the Internet, researching, valuing and pricing lost items and replacement costs can now be a few simple keyboard clicks away.

## **12. ENLIST THE HELP OF FRIENDS AND RELATIVES TO HELP YOU COMPLETE YOUR INVENTORY**

As with many aspects of dealing with the aftermath of a catastrophic loss, enlist friends and family to help with completion of your contents inventory. Many people ask how they can help after a catastrophic loss. Let people help you complete the massive task of the personal property inventory. Give a friend a discreet list of items that need to be researched, valued and documented. Example: China and silverware patterns. Friends and family may have photos taken inside your home that will help jog your memory and serve as proof to your insurer.

Sitting down and recalling room by room is one way to get started. Make use of all lists you can find to help you remember. A sample personal property inventory list is available at <http://www.uphelp.org/> Completing your inventory can be emotionally draining. Enlisting friends and family to help saves time and is a valuable source of emotional support.

The better you are able to document destroyed and damaged property and the cost of replacement and repairs, the better your insurance settlement will be. In most cases, written or photographic proof of destroyed items will also have been destroyed in a fire. Your descriptions of lost items, along with descriptions given by witnesses, family members, neighbors and friends should suffice and your company must reimburse you according to your policy.

Credit card companies and retailers can help you reconstruct purchases and identify replacement costs. Public adjusters can help if you are overwhelmed with the prospect of preparing a complete personal property inventory. Get extensions of time from your insurer if you need them.

## **13. COOPERATE WITH YOUR INSURER BUT DO NOT GIVE RECORDED OR SWORN STATEMENTS UNTIL YOU UNDERSTAND YOUR RIGHTS**

You must cooperate with reasonable requests for information from your insurance company that relate to your claim. If your insurance company has unanswered questions about items in your claim, they may ask you to give a recorded statement or participate in an "Examination Under Oath" (often referred to as an "EUO"). Use your own tape recorder to record your statement and the insurer's questions, and consult with an attorney before giving an EUO, particularly where the insurer has hired an attorney to conduct the EUO. Don't be intimidated!

**NOTE:** You are not obligated to give your insurer copies of tax returns to prove you had the means to purchase destroyed items. If your insurer doubts you owned items you lost, provide as much proof as you can locate.

#### **14. GET PROFESSIONAL HELP IF AND WHEN YOU NEED IT — CHECK REFERENCES AND LICENSES VERY CAREFULLY**

You may decide you want to hire professional help to take over the time-consuming details of documenting a major or total loss and negotiating on your behalf with the insurer to recover your full contents benefits.

Dealing with a large insurance claim on top of the emotional upset from a catastrophic loss is a lot to handle. Many people, particularly working and single parents and disabled or elderly claimants find they are unable to put in the time and effort it takes to settle a total loss claim.

Others feel the deck is too stacked against them and want to even the odds of getting a fair settlement by bringing in professional help. Whatever your reasons are, if you decide to get help, make sure you hire a reputable professional whose license is in good standing and whose references check out.

**Do not hire any professional to represent you in negotiating a settlement with your insurance company unless you have personally talked to AT LEAST TWO, preferably THREE or more PRIOR CLIENTS who were satisfied with how the professional handled their insurance claim.**

There are two types of professionals who can help you get a fair settlement of a large contents claim: Public Adjusters and Attorneys who have hands-on insurance claim experience. There are also “independent” adjusters but in most states they work only for insurance companies who need extra adjusting staff — not policyholders.

#### **15. NEGOTIATE FEES CAREFULLY IF YOU HIRE PROFESSIONAL CLAIM HELP**

Handling the details of a major insured loss and “wrangling” with an insurance company can be very time-consuming. If you agree to pay an attorney or public adjuster by the hour to handle your claim you will run up a big bill mighty fast. You can avoid this by negotiating a “not-to-exceed” ceiling or a set fee for handling your claim.

Where state law allows it, public adjusters and policyholder attorneys will work for you on a percentage or contingent fee arrangement. This means their fee comes out of monies they obtain for you from the insurance company. Professional fees are always negotiable. Percentage/contingent fee agreements allow you affordable access to professional help, but they will affect the amount of your net recovery.

## **17. IF YOU CONSULT AN ATTORNEY, FIND ONE WITH HANDS-ON EXPERIENCE REPRESENTING “INSUREDS” IN CLAIM DISPUTES**

As a person who paid premiums in return for insurance protection — you’re known in the legal world as “the insured”. Another term for “the insured” is “policyholder”. If you have an insurance policy that covers you or your property, you can be described as “an insured” or a “policyholder”. Insurance companies are very experienced in courtrooms and in legal matters. They employ highly paid experts to represent them. If you are involved in a claim dispute with your insurance company and need legal help, that help should come from someone with special expertise in the subject matter.

Insurance coverage and claim disputes require specialized knowledge of the law. Don’t expect a real estate or family lawyer to have that knowledge. There are attorneys who have experience doing battle with insurance companies in courts of law. They often describe themselves as “policyholder attorneys.”

A qualified policyholder attorney will have the expertise you need if your claim is being unfairly denied or if you are being mistreated by your insurer via “lowball” settlement offers, delays or other unfair claim practices. They will generally represent a policyholder on a contingent fee basis and advance case costs.

As with any professional, check references and professional standing before retaining counsel.

## **18. ALWAYS CONTACT YOUR STATE INSURANCE REGULATOR IF YOU’RE NOT GETTING FAIR TREATMENT**

Every state has an agency that regulates insurance companies and laws on how insurance companies are supposed to handle claims. If your insurance company is treating you unfairly and you’ve gone as far as you can with them but can’t solve the problem, your next step should be to file a complaint with the insurance regulatory agency in your state and take advantage of whatever information and services they offer to resolve claim problems. Even if they don’t solve your problem, you’ve let them know there are problems out there that need attention.

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