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Firefighter who lost home sues

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Sometime around midnight Oct. 27, Robert Thoennes returned to his home in Descanso to find it burned to the ground in the Cedar wildfire. He had spent the last 36 hours battling the Paradise fire in Valley Center. Thoennes, pronounced "tennis," has been a fireman with the Sycuan Fire Department for 11 years.

Like many Californians who lost homes last October, Thoennes thought his loss was adequately covered. It wasn't. At least according to insurers that are now defendants in a breach of contract lawsuit brought by the fireman.

"I'm devastated that everything in my house is absolutely gone," Thoennes said Friday. "To find out after doing all the things I needed to do to have insurance and not have it is demoralizing. You can never get ahead."

Thoennes and his 11-year-old daughter are now living in a two-bedroom Mira Mesa apartment with his sister-in-law and her boyfriend and child. The children share a room and Thoennes sleeps in a walk-in-closet.

"I can't afford to go out and get an apartment because I'm still paying my mortgage," he said. He hasn't asked his bank to defer mortgage payments because that would increase his debt in the long run, something he is reluctant to do as a single parent.

The lawsuit filed in San Diego County Superior Court seeks compensatory damages exceeding \$500,000 and punitive damages against **Lloyd's of London** and **Fidelity National Insurance Services** in San Diego.

A major issue in the case is a Sept. 11, 2003 certified letter sent by Abram Interstate Insurance Group, Lloyds' general agent in Citrus Heights, Calif., notifying Thoennes that his policy was being canceled. But Thoennes said he never received the letter, a miscommunication that plaintiff's attorney Paul Hilding said he would prove.

Representatives for the defendants could not be reached by press time. Ron Abram, president of Lloyds' general agent Abram Interstate Insurance Group, was not familiar with the case and could not comment. Abram was not named in the lawsuit.

Thoennes and his wife Robyn purchased a homeowner's insurance policy from Lloyds through Fidelity on July 17, 2003. According to the lawsuit, they paid the \$1,670 premium in full with a personal check. But a property inspection on Aug. 9 requested by Abram identified the presence of brush too close to the home as well as a mobile home guesthouse on the property that would have to be covered.

Robyn died Aug. 10 after a long struggle with Lupus, making Thoennes a widower and a single parent. He began leaving his daughter Amber with his sister-in-law during his 48-hour shifts at the fire department.

Meanwhile, Thoennes applied for additional homeowners insurance to cover the mobile home and spent two days clearing the brush from around his home in mid-September. Photographs of the cleared land were sent to Fidelity, and Thoennes said he was assured that the insurer's concerns had been satisfied. He believed his policy to be in full force.

But Thoennes was informed Oct. 29 -- two days after discovering the fire had destroyed his home -- that the policy had been canceled in writing in the certified letter Thoennes said he never received. According to Hilding, of the San Diego firm **Hilding Kipnis Lyon & Kelly**, a receipt for the letter tracked through the U.S. Postal Services documents that the letter was returned to its sender undelivered, something the defendants would have known before the fire. Lloyds has refused to pay for any of the damage, according to the lawsuit.

"I didn't know what I was going to do, I was pretty much dumbfounded," Thoennes said. After visiting a disaster relief center and considering a loan from the Small Business Administration, Thoennes was referred to Hilding. Thoennes said he does not want to take any action that would increase his debt such as applying for new credit to rebuild.

"I don't want to build a mansion. I don't care to get rich," he said. "I don't want it. I just want to rebuild and have what I had."

Hilding said a succession of poor documentation by Fidelity contributed to its failure to communicate the status of the policy to Thoennes and his mortgage holder, **Washington Mutual**. For example, after the Thoennes' refinanced the property with Washington Mutual in August, Fidelity provided the lender with proof of insurance dated Aug. 11. The document stated that Washington Mutual would be given 10 days written notice if the policy were ever terminated. However, the lawsuit alleges Fidelity erroneously listed the insurer as Fidelity & Deposit of Maryland, a Fidelity subsidiary, and that Washington Mutual was printed in the wrong place on the document. As a result, Washington Mutual was not informed of the termination, according to Hilding.

The lawsuit charges Fidelity with professional negligence.

Hilding is confident. "I wouldn't file a lawsuit if I didn't expect to win," he said Friday. "You've got a fireman who is raising his daughter by himself, and he really needs the help of his insurer right now and they are not doing it," said Hilding.

Meanwhile, Thoennes and Amber have gotten by with his earnings and have been able to buy clothing and food with the help of family and friends. A grant from the Federal Emergency Management Agency has helped pay for food and basic amenities like pots and pans. But he said the financial and emotional stress of the ordeal is taking its toll, impairing his sleep and ability to concentrate at work.

"It feels like I failed my daughter in some manner that I can't really provide a home for her anymore," Thoennes said. "She lost everything that she had (and) I can't bring all that stuff back. It hurts."